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PROCEEDINGS

SIXTEENTH ANNUAL MEETING

NATIONAL ADVISORY BOARD COUNCIL

MARCH 6, 7, 8, 1956

WASHINGTON, D. C.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
EDWARD WOOZLEY, DIRECTOR

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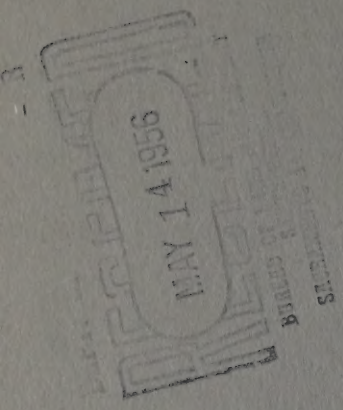

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FOREWARD

The 1956 annual meeting of the National Advisory Board Council was noteworthy in that the members had the opportunity to fully discuss various phases of public land management related to grazing administration. It was gratifying to note the members' thorough knowledge of current land management problems which enable the Council to make valid recommendations.

It is felt that this report is somewhat more complete than those of previous years in that a more detailed record was obtained, as suggested by the Council. Pertinent reference materials have been added in the Appendices.

On behalf of the Department and the Bureau, I wish to state that we are deeply appreciative of the Council members' public spirited devotion to the principles of proper management and conservation of the public lands. The effort by the members to assist the Bureau in reaching a goal acceptable to the livestock industry and the general public is commendable.

Edward Woozley
Director
Bureau of Land Management

ATTENDANCE

Council Members

State	Cattle	Sheep
Arizona	A. J. Bryce	Vard H. Heaton
California	Jess W. Chance	Henry Evans
Colorado	Leonard Horn	Dan H. Hughes
Idaho	Milford J. Vaught	Thara C. Waddoups
Montana	W. F. Garrison	Frank O'Connell
Nevada	Fred Strosnider	—
New Mexico	A. D. Brownfield	Floyd W. Lee
Oregon	A. R. Teater	Julian Arrien
Utah	McKinley Morrill	Briant H. Stringham
Wyoming	Sam C. Hyatt	John W. Hay, Jr.

Wildlife Representatives -- Area 1 - Murray M. Doyle
Area 2 - Garnet Kidd
Area 3 - Tom Gregory

Department

Secretary of the Interior	Douglas McKay
Under Secretary	Clarence A. Davis
Assistant Secretary	Wesley A. D'Ewart
Assistant Secretary	Felix E. Wormser
Assistant to Assistant Secretary	Carl Junge
Attorney, Solicitor's Office	Joseph H. Tudor

Bureau of Land Management

Director	Edward Woozley
Executive Officer	Depue Falck
Assistant to the Director	Earl J. Thomas
Area Administrator, Area 1	James Doyle
Area Administrator, Area 2	Neal D. Nelson
Area Administrator, Area 3	W. B. Wallace
Cadastral Engineering Officer	Earl Harrington
Range Staff Officer	G. M. Kerr
Range Officer	Royale K. Pierson
Lands Staff Officer	Harold Hochmuth
Minerals Staff Officer	W. L. Shafer
Range & Forestry Officer, Area 1	Travis Tyrrell
Range & Forestry Officer, Area 2	Chesley P. Seely
Range & Forestry Officer, Area 3	Cyril Jensen

Range Conservationist . . . . . Leon Nadeau
Range Conservationist . . . . . Ernest J. Palmer
Range Conservationist . . . . . Max W. Bridge
State Supervisor, Nevada . . . . . E. R. Greenslet

Visitors

Representative Henry Dixon -- Utah
Representative E. Keith Thomson -- Wyoming
Mr. Bob McConnell from office of Congressman A. M. Fernandez -- New Mexico
Mr. Harold Mosebrook -- U. S. Chamber of Commerce
Mr. Richard W. Smith -- U. S. Chamber of Commerce
Mr. Harvey Dastrup -- American Farm Bureau Federation
Mr. R. O. Brownell -- Farm Credit Administration
Mr. Nolen J. Fuqua -- President -- National Association of Soil Conservation Districts
Mr. Marion Monk -- Director National Association of Soil Conservation Districts
Mr. Byron Wilson -- Wyoming Wool Growers Association
Mr. E. E. Marsh -- Acting Executive Secretary, National Wool Growers Association
Mr. Radford Hall -- American Cattlemen's Association
Mr. W. O. Bradley -- Attorney, Reno, Nevada

NATIONAL ADVISORY BOARD COUNCIL
ANNUAL MEETING, MARCH 6, 7, 8, 1956
WASHINGTON, D. C.

Tuesday, March 6

Chairman A. D. Brownfield, presiding.

Before introducing Director Woozley, Mr. Brownfield stated that he would like to mention some of the subjects considered at the Council's 1955 meeting. The Council passed a resolution pertaining to joint grazing and mineral use of Federal lands, a copy of which was sent to Western Senators and Representatives. Senator Murray, of Montana, replied that before proceeding further with consideration of possible amendments to the proposed law he was asking the AEC to submit a report on what steps the Commission could take to avoid allegedly ruinous and unnecessarily destructive methods of mining uranium. Mr. Brownfield mentioned that Public Law 167 had been enacted and that Mr. Shafer would discuss it later on in the program. Also of concern last year was the introduction of H. R. 2629 by Mr. Metcalf of Montana, which, if enacted, would have amended the section of the Taylor Act pertaining to advisory boards. Mr. Brownfield stated he filed a brief against the bill through the Hon. John J. Dempsey of New Mexico. The Small Watershed bill (now Public Law 566) also was discussed last year and will be discussed later on by Mr. Pierson at this year's session.

Another matter of concern to the Council last year was the apportionment of range improvement funds. It was the Council's recommendation that these funds, when available and not all used by one district, be loaned to another district with the assurance they would be refunded at some future time when another district was in need of additional funds.

REMARKS BY EDWARD WOOZLEY, DIRECTOR, BUREAU OF LAND MANAGEMENT, TO THE ANNUAL MEETING, NATIONAL ADVISORY BOARD COUNCIL FOR GRAZING, WASHINGTON, D. C. MARCH 6-8, 1956

PROGRESS AND ACCOMPLISHMENTS AND THE IMMEDIATE FUTURE

It is pleasing that so many of you could take this valuable time away from your private affairs to be here. I hope that you are comfortably lodged and enjoy your stay as much as we enjoy visiting with you.

The order of business for this year's meeting again reflects the suggestions and topics sent in by Council members as well as those of Bureau personnel. We are grateful for your recommendations as they help make these meetings more profitable and worthwhile for all concerned.

As customary, the program is more or less informal and you should feel free to introduce other topics at any appropriate time, especially if we have overlooked any that were sent in.

As you may recall from our memorandum announcing this meeting, we have attempted to loosen up the agenda to permit more discussion which is the "brass tacks" of any meeting.

In that connection, I shall try to set an example by being as brief as possible with these opening remarks. The more time we can save the more time we will have for unlisted topics and Council discussion.

Last year I reported on our reorganization, so I won't need to go into that except to cite some tangible results of the improved efficiency that has resulted. When I came to the Bureau in 1953, you recall we were operating under seven regional offices withdistrict offices dealing directly with the regions. At that time, we were taking in about 67,000 applications of various kinds a year, and closing around 64,000 cases. This year, 1956, it looks as if we will receive about 155,000 cases and close around 150,000 cases--with very little increase in personnel.

New laws, passed since our last meeting, will make the hiring of more personnel necessary, but I firmly believe there will be correspondingly better service.

Much of this improvement is attributable to reducing the number of Regional offices to four Area offices and creating 11 State offices and one Alaskan operations office through which all operating activities of the Bureau are conducted. Sixty-four

district grazing and forestry offices and 15 district land offices now make their reports direct to the State offices. Each State has a staff supervisor and operation staff for lands and minerals, grazing and forestry.

Perhaps the biggest change, however, has been decentralization. This is now an accomplished fact, not only decentralization of authority, but of adjudication work for both lands and minerals formerly centered in Washington, D. C.

At the same time, our offices have accommodated more transactions and earned more money than ever before aside from how the work load was distributed. At last year's meeting we reported total receipts of $77 million for fiscal year 1954. In fiscal year 1955 we took in $239.5 million against a budget of $13.1 million, excluding reimbursable funds for construction of access roads in Oregon.

More than $142 million of these receipts came from bonuses and first-year rentals paid for oil and gas leases on submerged lands of the Outer Continental Shelf in the Gulf of Mexico. The remaining $97 million represents earnings from long-established operations--a return of more than $7 for each $1 of operational costs.

Sales of public lands and materials brought in about $1.9 million; fees and commissions for services rendered amounted to about $735,400; mineral leasing other than the Outer Continental Shelf earned $66.7 million; OCS mineral leasing accounted for $142.4 million as mentioned; grazing fees, brought in $2.2 million; right-of-way leases, $83,500; timber sales, $24.9 million; and miscellaneous receipts, $395,000.

You can see that our activities are varied and cover almost every phase of resource management and protection in addition to range management.

Before settling to the subject of range management, I would like to mention one or two highlights of our accomplishments in related fields during the past year.

Program planning procedures at the grass roots level have been developed and are working. We feel we now have more realistic budgeting and allotment of funds, beginning and ending right down at the district offices.

Field commissioners were appointed and are on the job.

Decentralization of the Eastern States Office was effected and a field services organizational unit was installed in Washington, D. C. to serve all field offices.

A personnel evaluation program has been put in force.

A new service fee schedule expected to increase receipts more than $200,000 annually has been adopted. This does not include grazing fees.

A substantial change in Alaska operations was made.

We assisted in the passage of important new legislation--Public Laws 167 and 359--which will be discussed by Bill Shafer of our Minerals Staff.

The Bureau has completed a study of several grazing district offices which will be discussed in detail by Earl Thomas.

The record improvement program, which I mentioned last year, has progressed substantially as planned.

A new docket control system is now in operation in most offices and a new appeal unit in the Washington office is working very satisfactorily.

Our cadastral engineers surveyed 125 townships, a new record, last year in a stepped-up program to enable some of our Western States to come into possession of statehood grant lands. This does not include about a million acres of resurveys that were made.

New procedures and regulations have been put into effect pertaining to land examination and classification, and to small tract problems.

Considerable progress was made in public land forestry and particularly in forestry on the O. & C. revested lands of western Oregon.

In range management, I suppose the biggest forward step has been the successful initiation of the new fee structure and a formula which takes into account all factors involved. The grazing fee study conducted in 1951 and 1952 covered 7 million acres of Federal, State, and private land, and included costs of production, taxes, range benefits, and market prices. It was found that a reasonable fee coincided closely with the average price of beef and lamb at the Western markets at the time the survey was made. As with all fees, it was also found that the

ability of a person to pay was an important factor. The fairness and soundness of the new plan seems to have convinced the General Accounting Office, the Bureau of the Budget and those members of Congress who were critical that we are fulfilling our three-fold obligation to (1) properly manage the public lands while they remain in public ownership; (2) stabilize the livestock industry that is dependent upon Federal range lands; and (3) charge a reasonable fee, taking into account all factors. The new formula becomes effective on January 1, 1957.

We are happy, of course, that the Navajo Indian court case in southeastern Utah was reversed and settled in our favor by the Court of Appeals.

Revision of the Federal Range Code for Grazing Districts was a major accomplishment of the past year. It is the culmination of several years work toward improved enforcement of the Taylor Grazing Act and to bring the language of the regulations into line with existing practices. We are grateful for the valuable help of the Council and the grazing district advisory boards in developing and drafting the revisions.

We are on schedule with the 20-year soil and moisture conservation program.

Most gratifying, however, is the adjustment of grazing obligations on the Federal range to the grazing capacity. Adjustments and agreements have been worked out without the need of hearings. New range inventories have greatly contributed to the progress made in reappraising grazing privilege adjudications. The general tightening of dependent property survey standards and more exactness in assembling the information have been factors in reducing unqualified demands and improper grazing practices.

The cooperation of the stockmen users of the range with Bureau employees in working out stocking adjustments, dependent property surveys, trespass control and other range activities is worthy of special comment. This cooperation has greatly facilitated this work and we think it reflects the increasing conservation-mindedness among stockmen generally. Our range managers and permittees, working together on the ground, have been able to make satisfactory agreements and adjustments in our accelerated adjudication program. There have been some adverse decisions rendered, and the backlog of pending grazing appeals has grown, but the increase is not proportional to the number of users affected. We are now working with the Solicitor's Office in an attempt to get another hearings examiner to further expedite this phase of our program.

Our Range Management Staff will provide details of our progress and accomplishment in these and other phases of the range management program.

Looking at the immediate future, the prospects for appropriations for fiscal year 1957 appear bright. The House allowed us $18 million which compares to slightly over $14 million last year.

The new work load resulting from enactment of Public Law 167 will take up most of this increase, assuming that we get it. Additional range and forestry technicians, minerals examiners, and clerks are needed for the task of determining jurisdiction of surface rights on thousands of unpatented mining claims which are hindering disposal of lands, grazing privileges, timber, and holding up rights of way.

The Federal range will receive substantial benefits from the enlarged program for enforcement of Public Law 167. Although the law is not retroactive, it will enable us to manage public domain timber that is so important to watershed protection, and to issue grazing leases on lands that could otherwise be tied up by present and future mining claims.

I promised to be brief, so let me conclude by assuring you that we rely heavily on the advice and recommendations of this Council and the State and District Advisory Boards that you represent. We firmly believe in the advisory system and note that other government agencies are showing increased interest in the idea of advisory groups. The grazing advisory boards are one of the few systems actually authorized by law, however, and they have certainly proved their effectiveness and value to the Department and the Bureau of Land Management.

CURRENT PROBLEMS IN GRAZING ADMINISTRATION

Range Staff Officer Kerr began his remarks by asking the Council if the minutes of their last meeting, prepared in this office, were satisfactory to them. Mr. Strosnider stated he believed the minutes could be improved by incorporating the questions that were brought up and the decisions reached.

Mr. Kerr stated that one of the problems confronting us this year is that of eliminating excessive use of the range, and the opposition of the stockmen to reductions because in many instances reductions cause a drastic change in a permittee's operation. It was necessary to convince the stockmen in heavily overstocked areas of the need for such reductions. This brought up another problem--that of adjudication. Each individual in a

grazing unit should be allocated his fair share of the range. Changes have taken place in base property holdings without notice to the Bureau that now require adjustments of grazing privileges.

Another problem is that of applying reductions so as to be least harmful to the stockman. Sometimes adjudication procedures spread over as much as three years before we obtain the data necessary to measure the qualifications of each applicant and the amount of forage available for distribution, and make the distribution of that forage among the applicants. When it is certain that a reduction is necessary, the users should be informed of the anticipated adjustments. Mr. Kerr said he doubted whether we could work out a schedule of reductions year by year, as it was not too sound a process.

Another factor, overstocking, has been very definitely pointed out by the General Accounting Office, whose auditors make audits of our activities in the West. They have criticized us since 1952 for issuing grazing privileges in excess of the estimated grazing capacity, when the regulations require that we not issue grazing privileges beyond the grazing capacity of the range. This criticism does not stop with the Bureau and the GAO, but a report goes on to the Congress and the Bureau of the Budget and they begin to ask questions.

Another problem confronting us is in connection with grazing appeals. As of March 1 there are 116 appeals pending hearing. Some are new appeals, but many are old cases. In some instances, the adjudication of a whole unit is being held up because an appeal is filed by one of the members of that unit. Until a decision is reached in that particular case we cannot act on the remaining cases because they all are dependent upon the case on appeal. At the present time appeals are also backlogging in the Bureau and the Department.

Trespass is too common and we receive many complaints but with the present staffing we are unable to provide adequate management supervision of grazing uses. In connection with an inspection of Area 2 last summer the range managers said the ranges were overstocked and the amount of undetected trespass was high. This results in harmful use of the range and loss to other permitted users of the area.

All of these things that happen, such as military withdrawals, the study team report on grazing district offices, the Code, - all result in a large volume of correspondence and work in the Washington Office. The result is that we are having to spend more time here in Washington when we should be out seeing what is going on in the range areas.

PROGRESS IN RANGE ADJUDICATION

We started a concerted effort 3 years ago to complete the adjudication of grazing privileges. The Areas, States, and districts are going along with this plan and some districts have made excellent progress. The adjudication of privileges in the Soldier Creek Unit of Oregon 3 is of especial interest. There we had to make reductions of 25 per cent. This was the district where the GAO auditors painted such a black picture. This past January, the job was completed and the reduction was made without an appeal. Serious reductions have to be made in Idaho 5, and this is being worked out.

PROGRESS IN RANGE CONDITION STUDIES

We have instituted a plan of range condition and trend studies to determine if the condition of the ranges is going up, or if the ranges are deteriorating. Our system is far less detailed than that of the Forest Service, as we haven't their kind of staffing, and on top of that we have more acreage. Mr. Milo H. Deming completed his training of district men in all 10 States during the year, and the program is proceeding nicely. Our condition and trend report for 1955 will be very helpful. A number of detailed checks, transect plots, etc., have been set up in former years and others to be established will be used as a guide to the accuracy of the condition and trend process.

PERSONNEL TRAINING AND RANGE RESEARCH

We have followed a program the last few years of detailing field people to the Washington office. We are able to have the benefit of their viewpoints and find their assistance extremely helpful.

This past year we have realized the need for a more careful look into research work being done by other agencies on problems that are of direct concern to this Bureau. We have no funds for research work, with the exception of the halogeton program where the law provides that we may use funds for research work. We have had to rely on Federal and State experiment stations to do the type of work that we need. At a meeting of Bureau people with research workers in Denver this past January we found that many jobs were being done we knew nothing about, but in which we are extremely interested.

As Mr. Woozley mentioned, we do need an increase in staffing in order to overcome the deficiencies in administration previously mentioned.

Mr. Kerr then introduced his assistant, Mr. Pierson.

Mr. Pierson stated that the Bureau is making significant progress in Soil and Moisture Conservation, Weed Control and Range Improvement Programs. In the last five years we have reseeded three quarters of a million acres of range land or an average rate of 150,000 acres per year. In a few years at this rate we will make a substantial hole in the large acreage of depleted range lands. Last year we cleared 60,000 acres of brush by spraying, railing and mechanical methods, built nearly 2,000 miles of fence and 748 stock waters. We installed watering facilities on 135 drilled wells, plus 150 spring developments and built over 100 major erosion control structures for gulley control. This has been possible through gradual increases in appropriations. Last year we had a $5,000,000 program aided by over $2,000,000 in contributions from range users.

At the conclusion of Mr. Pierson's discussion, the meeting was opened to questions and general discussion.

Lee--Asked what was the oldest seeding and how long would a reseeded area remain productive.

> Pierson-- The oldest large scale reseeding dates back to 1943, but some had been done by the Civilian Conservation Corps prior to that year. Where the BLM has plowed and drilled, the reseeding has persisted many years and is still very productive. We have found that we are more successful in the sagebrush type, but we learn more about it as we go along.

Lee--The important thing is to get reseeding down to a practical thing and possibly an economic study should be made.

> Pierson--At the present time several Western States are carrying on economic studies as a part of a regional project on the economics of range improvement.

Hyatt--Asked if any conclusion had been reached concerning rate of sagebrush regrowth on controlled areas.

> Pierson--No definite conclusions have been reached, but in Idaho, on areas where sagebrush was considered dead, limited regrowth occurred in the third year and it was estimated that 25 per cent of the reseeding would be invaded by sagebrush in 15 years.

Lee--Asked if any work had been done on the possibility of spraying to control sagebrush and put minerals back into the soil at the same time.

Pierson--He was advised that the Bureau has done no work on this, but there are several companies who would like to do this for the Bureau. Limited field trials have shown that nitrogen may be as important as moisture in sagebrush-grass competition.

Stringham--Requested any information on the progress in aerial reseeding.

Pierson--Fair stands have been obtained on burns in the high rainfall belt along the Coast by aerial reseeding following site preparation. During the year when surplus grass seed was transferred from the Commodity Stabilization Service it was seeded by air where it would most likely be a success. Trials were made in 8 States. Seedings need favorable moisture for at least 30 days after germination to get established.

Hughes--Are there any figures on the carrying capacity of reseeded lands in a 4,000 to 5,000 foot elevation with a 9 inch average rainfall?

Pierson--Weight estimate surveys have been made under such conditions in southern Idaho showing yields of 500 to 1,000 pounds of usable forage per acre. Experience has shown that the best stocking rate is 3 acres per AUM.

Mr. Brownfield then introduced the following visitors:

Mr. R. O. Brownell	Farm Credit Administration
Mr. Harvey Dastrup	American Farm Bureau Federation
Mr. E. E. Marsh	National Wool Growers Association
Mr. W. O. Bradley	Attorney, Reno, Nevada
Mr. Richard Smith	U. S. Chamber of Commerce
Mr. Harold Mosebrook	U. S. Chamber of Commerce

HALOGETON CONTROL PROGRAM

Mr. E. J. Palmer, Range Conservationist, next addressed the group regarding the halogeton program. Through the Range Improvement, Soil and Moisture Conservation and Weed Control Programs, we are definitely obtaining encouraging results in the control of halogeton.

The Bureau's halogeton control program consists of:
(1) Surveys to determine proper means of control and to determine

the location, extent and direction of halogeton spread. Surveys have been conducted on more than 12 million acres since inception of the program. (2) We seed infested or threatened ranges to hardy perennial grass that will crowd out and prevent spreading halogeton, and at the same time produce forage for livestock removed from infested areas that are unsuited either for grazing use or reseeding. Reseedings have been made mostly in Idaho, Nevada, and Utah in the better soil areas with 9" or more of rainfall. We have reseeded 402,993 acres through fiscal year 1955 and about 80,000 acres will be reseeded annually in 1956 and 1957. The successful reseedings are definitely controlling halogeton and they are having a very beneficial effect on improving adjacent ranges. (3) We attempt to control and eradicate isolated spot infestations by chemical spraying. Spraying may also be done along perimeter areas and avenues of spread to prevent seed production and reduce the rate of spread. In chemical control we have treated about 83,000 acres since the program began in 1952 and from 10 to 15 thousand acres will be treated annually in 1956 and 1957. Several spot infestations have been eradicated and chemical spraying has been effective in other areas. (4) In the drier and poorer soil areas primarily in Montana, Wyoming, Utah and Colorado where grass seedings can't successfully be established, we are using forage development projects such as contour furrowing, water spreading, pitting, protection and management fencing and proper range management to control halogeton. The objective is to gradually obtain an optimum stand of native range plants to such a degree that halogeton will be crowded out. More than 1,000 miles of fence have been built and 62,036 acres treated in forage development projects.

The Bureau is cooperating with the Bureau of Reclamation in halogeton control. Reclamation does the work on the irrigated areas and the BLM carries out the control program on the acquired and withdrawn areas outside the project.

The Bureau is cooperating with the Land Grant Colleges of Idaho, Nevada, Utah and Wyoming in field studies designed to find the most practical methods of control. Valuable information on when and how to spray has been developed. New chemicals for post emergency treatments appear promising. Management studies relative to reseedings and the native range are proving beneficial. The Agricultural Research Service of the Department of Agriculture is also conducting valuable studies on halogeton.

In 1956 the Bureau obtained approval from Congress to use a limited amount of the halogeton monies, first, to cooperate with local county agents and county and State weed control groups in making a reliable survey of the more serious noxious and poisonous weeds on the public lands; second, to cooperate with the various research agencies of the Federal Government and the States in

carrying out a research program to find the best ways to control these weeds; third, to cooperate in a limited way with State and local weed control organizations in controlling the more serious noxious and poisonous weeds where the efforts of these groups would be nullified if the Bureau did not participate. Funds will be very limited for this program, but a small amount of work will be carried out in 1956 and subsequent years if funds are provided.

While encouraging results are being obtained in the halogeton control program some of the most serious problems are as follows:

1. Chemical control is relatively expensive. Several treatments per year for several years are required to obtain eradication. A better chemical is needed that is selective to halogeton alone and more effective.

2. Halogeton will apparently grow on practically all soil and moisture conditions of the West. The plant is a vigorous seed producer and seeds are spread in an explosive manner by numerous methods.

3. Better control measures are needed for the lower rainfall and poorer soil areas.

4. Livestock losses are still occurring (wide spread) in certain areas where halogeton grows luxuriant and dense in growth.

Hughes--Voiced concern over the possibility of halogeton spreading through the right-of-way of the new Pacific Northwest gas line that starts in New Mexico and goes through parts of Colorado, Utah, Wyoming, Idaho and Oregon and asked what precautions had been taken to keep this from happening.

Palmer--Such companies have been encouraged to reseed areas they have denuded.

Kerr--In some instances soil and moisture is so deficient that it is difficult to reseed upon the denuded areas.

Waddoups--Stated that some provision should be made in the right-of-way grant for the companies to seed and care for the land that is denuded.

Palmer--Many contractors are bringing halogeton seeds into new areas on their equipment. Chemical spraying should be

used to prevent halogeton invasion on the gas line right-of-way, and where possible, the right-of-way should be reseeded to hardy perennial grasses or otherwise revegetated to serve as the necessary competing vegetation to prevent the spread of halogeton throughout the right-of-way. The particular pipe line referred to goes through halogeton country, and therefore a proper control program is needed.

Kerr--The problem should be explored with the pipe line company to see what can be done about the situation.

Woozley--When the line is serviced after completion, there will always be a hazard of spreading halogeton and their equipment should be cleaned.

Kidd--Stated that he had noticed wherever the sagebrush is heavy, halogeton doesn't take hold.

Stringham--At what elevation does halogeton cease to do well?

Palmer--Elevation doesn't seem to be an obstacle, as halogeton has been found at 7,500 feet.

Vaught--Mentioned larkspur as well as halogeton as being detrimental to livestock and wanted to know if any other weeds were being controlled.

Palmer--If the Range Manager and the advisory board feel that larkspur or any other weed is causing damage and making the range hazardous to use, control measures could be initiated if practical methods are known. If satisfactory control measures are not known, the research agencies should conduct the necessary studies to find practical control methods.

Hughes--Has any work been done on burdock or similar weeds?

Palmer--None, but a limited control program could be carried out against other serious noxious and poisonous weeds, if necessary, to the extent that funds are available. Funds used on other weeds means less for halogeton.

Kerr--There is no support from Congress for a large scale weed control program on the public lands except for halogeton.

Lee--Inquired as to the cost per acre in treating halogeton.

Palmer--The following information is furnished relative to the halogeton funds made available by Congress and the cost of the Bureau's control treatment per acre.

Funds for Fiscal Year 1952	$1,860,000
" " 1953	1,345,000
" " 1954	1,300,000
" " 1955	650,000
Total	$5,155,000
Less 991 miles of fencing	700,000
	$4,655,000
Less cost of surveys	135,650
Total	$4,519,350

Average cost per acre of treatment including surveys, reseeding, chemical treatment and forage developments is $.35 per acre. Average cost of the BLM treatment for reseeding, chemical treatment and forage development is approximately $7.00 per acre.

EXTENT OF HALOGETON INFESTATIONS

E. J. Palmer then pointed out with the aid of a large halogeton map:

1. Where the greatest spread of halogeton occurred in 1955.

2. Where the most hazardous areas are located from the standpoint of susceptibility to invasion by halogeton.

3. Where and why the greatest livestock losses are occurring.

4. Where reseeding, spraying and forage development projects were being carried out.

5. Where halogeton spot infestations had been eradicated.

Vaught--Asked if any work had been done to control halogeton by disease or insects.

Palmer--The Agricultural Research Service has done some work in Idaho but has found no disease or insect that shows promise in controlling halogeton. The Agricultural Research Service has recently sent a team of two people to the Mediterranean area to investigate halogeton in that area for any disease or insect that might help control halogeton.

Hughes--Asked if livestock developed a resistance to halogeton.

Palmer--There are no indications that they do, but there is some evidence that livestock which are accustomed to halogeton will not eat enough to cause serious trouble. Livestock losses are occurring primarily in areas where halogeton comprises most of the total available livestock forage, and mostly in the fall and early winter before all of the seeds and leaves drop from the plant. Chemical analysis has shown that most of the oxalic acid that causes the poison is found in the leaves and seeds of halogeton.

TREND OF LICENSED LIVESTOCK

Hay--Sheep numbers have noticeably decreased in several years with cattle numbers increasing. What has really been the trend in licensed use in the years of 1949 through 1955?

The information requested was supplied by the Range staff to Mr. Hay and the Council and is discussed here.

As the majority of livestock are licensed under regular licenses, these were the only class of licenses considered with crossing permits and free use licenses excluded.

In 1949, licensed cattle numbers were 2,213,233 in the 10 Western States which have grazing districts. In 1955, this number had increased to 2,410,877, an increase of 197,636 animals. Of course, the animal unit months utilized by cattle also increased from 8,645,448 in 1949 to 9,881,127 in 1955. It is interesting to note that this was not a steady increase, in that during the year of 1951, only 2,212,552 cattle were licensed, which is the low for the seven year period considered. A huge increase in the number of aum's utilized began in 1952 and 1953, but during the last two years cattle have decreased by 47,574 animals.

Sheep numbers in 1949 were 6,305,769 and in 1955 were 6,162,768 with a low in 1951 of 5,891,545. The animal unit month's utilized by sheep in 1949 were 5,359,837 and in 1955, 5,062,408. The amount of forage used by sheep has remained relatively stable in comparison to the amount used by cattle.

The figures show that the total number of cattle and the forage used by both classes has increased since 1949, largely caused by the increase in cattle numbers. The last two years indicate the beginning of a slow downward trend of both classes of livestock.

Tuesday P.M., March 6

DISCUSSION OF POLICIES AND PROBLEMS

Hughes--Suggested that local boards have committees established which would inspect allotments reportedly misused and would contact the licensee concerned.

Kerr--Explained that this is used in numerous cases. As an example committees were used in the inspection of the Soldier Creek Unit in Oregon 3.

Hughes--At what level of the organization is a formal decision applied?

Kerr--At the district level.

Hughes--When does a decision become binding?

Tudor--In civil law, the decision of the district court is binding until appealed to a higher court. The same principle is true in the Department of the Interior. When an erroneous interpretation has been made, instructions are issued that in the future the regulations will be interpreted to correct this error.

Hughes--Is the final decision with the Secretary of the Interior?

Tudor--Yes, but reconsideration of any question may be requested; however the Secretary may disallow any further study.

Arrien--Asked what single factor contributed the most to the settlement of the Soldier Creek adjudication?

Nadeau--Upon the completion of the work of obtaining all the facts pertinent to the situation, the opposition to the adjustment ceased.

Garrison--In Wise River, Montana the permittees have had a 30% reduction. In light of this reduction, it is probable that the range will improve. Will the Department restore this 30% reduction as the range improves?

Kerr--The permittees will be allowed additional privileges to the extent of the proper grazing capacity and their qualifications.

LIVESTOCK-BIG GAME COMPETITION

Hughes--At the Colorado State Board meeting, with the approval of the State wildlife representative, a resolution was passed that whenever it was necessary to reduce the demand on the range for domestic livestock, an equal reduction would be made on wildlife also.

Kerr--Two points are involved in the management of wildlife numbers. First there is a problem as to the correctness of the analysis which shows that game will use certain forage and livestock another. If there is a range area that requires a reduction in use by livestock, is it justified in assuming that the same reduction need also be made on wildlife? An analysis of the area to determine what class of animal is causing the abuse and the extent of such abuse is necessary. Then the other point, -- will the State Game Commission cooperate in the reduction.

Bradley--Asked if it would be necessary for the Game Commissions to cooperate, as the Federal Government is the landlord.

Kerr--The courts have ruled that game belongs to the State, and the State is responsible for the proper management of it. Recommendations can be made to the game people by the Federal Government that they reduce herds in certain areas. Many States have been very cooperative. Nevada is an example in the fine cooperation with the deer problem on the California State Line.

Garrison--In some places elk plants have been made which contributed to the overgrazing of the area.

Kerr--Suggested that the stockmen persuade the game management people to obtain advice from the stockmen prior to the plants.

1956 REVISION OF THE FEDERAL RANGE CODE AND PROPOSED CHANGES

Range Staff Officer G. M. Kerr lead a short discussion of the 1956 revision of the Code. The revisions finally adopted resulted from a number of years of operation under the old regulations which were first put into effect in 1938, revised in 1942 and continued with minor revisions up to the time the last revision of the Code was undertaken. The major current revision is the elimination of much unnecessary wording. There are two or three major changes. The revision was to provide regulations that would insure equitable treatment to all users of the public lands in grazing districts and it is felt that a pretty good job was done. Some people don't feel that the revisions are equitable. Mr. Bradley, an attorney from Reno, Mr. Bruce Thompson, another attorney from Reno, Mr. Vernon Metcalf from Reno and Orville Wilson from Elko, Nevada submitted criticisms. In view of the fact that this meeting was pending, it was felt that the criticisms should be brought to the attention of the Council. Copies of the letters were sent to the Council members, Area Administrators, State Supervisors and District Range Managers.

Teater--Asked if any comments had been received from Oregon.

Kerr--No, all the coments came from Nevada. One other comment was received from Mr. John Shanklin of the Technical Review Staff of the Department, who proposed a revision with reference to the fire plans. Mr. Wilson's letter was not reproduced as it arrived too late. Mr. Bradley requested that he be allowed to appear before the Council through Congressman Young. Mr. Bradley was notified that time was not available for that but he could attend as an observer and he is here in that capacity.

Bradley--In publishing the Code in the Federal Register, the Bureau requested comments and suggestions. He had the impression that the Code is not effective until comments or suggestions received have been studied.

Kerr--The regulations became effective 30 days after date of publication; however, that does not mean that objections will not be considered.

Bradley--It is a matter that should be taken up with the Department and not with the National Advisory Board Council, since the Secretary approves the rules. Any revision must have his approval.

Kerr--Mentioned that in addition to the objections received which were circulated to Council members and Bureau personnel, that he had prepared comments on the suggestions. Copies were distributed to the Council. (See Appendix F)

Lee--Believed a statute of limitations should be made and be equal between permittees and the Government. (Section 161.6(e)(13).)

Kerr--Stated that Mr. Orville Wilson, an attorney from Elko, Nevada and Mr. Bradley objected to the provision that the Bureau may attack an adjudication at any time if it is found to be in error; however, the users are allowed three years in which to object. There is a question in the first place whether the Government can waive the right of correcting a mistake made by one of its employees.

Tudor--In his opinion if there is going to be a statute of limitations on the Secretary it must come from the Congress and would have to be very specific. Mr. Lee was asking for a Statute of Limitations as it is used in law.

Strosnider--Questioned Section 161.6(13)(i) which allows the Bureau to readjudicate at any time.

Kerr--This change in the Code was considered to be reasonable and necessary and any mistakes that may have been made would

not "freeze." The districts are being studied to measure the qualifications of all users against the amount of forage available for distribution and each will be given his proportionate share. Two policy statements are being prepared which will result in faster accomplishment of this job. Where present licensed use is in excess of the qualifications it will be studied and corrected.

Lee--Wanted to know how the records could be reviewed now after such a long period of time, and the mistakes detected.

Kerr--The boards had passed on applications year after year and if they were proper in the first instance, as an allowance to class 2 properties, the owners of these automatically became class 1 applicants.

Bradley--Said that where a permit was issued erroneously the burden of proof was on the permittee in the new Code.

Kerr--The Bureau attacks the qualifications of an applicant but if the base property and the production is there we don't have to argue about that.

Bradley--If the Bureau readjudicates it is the burden of the Government to prove it was issued erroneously. Also Section 161.6 was unfair.

Kerr--In order to guard against arbitrariness, all actions under Section 161.6 must be presented to the advisory board for recommendation, which is the first step; secondly, if the applicant fails to go along with an instruction to fence, pursuant to action under Section 161.6 (e)(14) or to provide his share of the cost, and is cited to show cause why his permit should not be cancelled, he will have to do that under Section 161.9(d). He is given an opportunity to appeal.

Tudor--Called attention specifically to the language of Section 161.6(14) "*** If the proper use or orderly administration of the range makes it necessary ***."

Bradley--Said that if the range manager states it is in the sound interest of range management, when the matter comes up for review and an individual alleges it is not in the interest of sound range management, then the Department would rely on the range manager's opinion.

Tudor--The range manager's administrative judgment must be supported by facts.

Bradley--The Code, a product of Government attorneys, should be carefully studied by the Council together with the objections raised, and if it was found to be unworkable the Council should recommend to the Secretary that it be revised.

Lee--Government attorneys did not write these regulations. The livestock men wrote them, and the Code had been changed several times on the recommendations of the Council and the local boards. The present Code had been in the process of revision for about three years and if there are any mistakes they belong to the Council.

Brownfield--It is one of the Council's functions to revise and change the Code. Mr. Bradley's objections would be given consideration.

Hyatt--Asked what the Bureau's policy might be to enforce fencing and what would happen if a fence were torn down.

> Kerr--Cited Section 161.6(14) of the Code and stated that the Government could prosecute if the fence referred to was a Government fence.
>
> Tudor--Also referred to Section 2 of the Taylor Grazing Act, providing for criminal prosecution and penalty of not more than $500.

Vaught--When the Bureau started issuing licenses under provisions of the act did that constitute an adjudication of the range?

> Kerr--It didn't because the information at that time was very sketchy. Complete information was not available on base property or priority until years later in many instances. One thing that wasn't done was to reduce the grazing load on the Federal range to the grazing capacity.

Vaught--Asked if an intervener could call for a readjudication where licenses have been issued.

> Kerr--Only on the ground that he didn't receive his proportionate share.

Vaught--Asked when the three years time limitation starts.

> Kerr--If an adjudication is completed in 1956 the time would start at that point.

Brownfield--Called the Council's attention to Section 161.7(c) on page 11 of the Code and asked that they give it their special attention.

Brownell(Farm Credit Administration) -- Stated that their interest in the regulations was entirely confined to what happens to the lien holder when livestock grazed on the public domain are seized for one reason or another. Under certain conditions of the regulations, the range managers could impound and dispose of livestock. Farm Credit Administration is interested because cattle are the security for some loans they make and the mortgage given is recorded in accordance with State law. Of principal concern is the very short notice period that is provided for in the Code 161.12(c)(2). In protecting loans more adequate provision should be made for notice in appropriate cases. The lien holder is supposed to advise the range manager that he has a lien.

Kerr--Section 161.18 applies only to liens on property and not on livestock.

Tudor--Some times the range manager is required to go to the county record and finds that a lien may be recorded in the name of a ranch and not in the name under which the license or permit is issued. There is no tie-in between the cattle and the licensee or permittee as far as the lien records go. This presents a problem where there are trespassing livestock. This was a matter that perhaps could be worked out between the two agencies.

Kerr--At a recent meeting with representatives of insurance companies the provisions for the filing of notices of their liens with the range manager were discussed in detail.

Hay--Before cattle are impounded the range manager should check the county records and that an instruction should be issued to that effect.

Seely--The Council was discussing two different things--one the sale of livestock and the other impoundment. If it is necessary to dispose of livestock to settle a trespass then the loaning agency should be notified.

Brownfield--Called attention to Section 161.18(b) of the Code and informed Mr. Brownell that full consideration would be given to the problems he presented.

DISTRICT GRAZING OFFICE STUDY

Mr. E. J. Thomas, Assistant to the Director discussed the management improvement accomplishments in the past year with emphasis on the study report on district grazing offices.

The concept of the Bureau's management improvement is one of practical application. Over the past year, the Bureau has

formulated an inspection program, prepared studies on two land offices and the Eastern States Office and made a study resulting in a docket system. In addition, instructional material was transmitted to the field from regulations promulgated by the Bureau and the Department. Upon request, the organization of the grazing offices were studied and reported on. It was not the intent that the study reports would become a guideline for all districts. If it is impractical for any particular district, there should be no consideration to its application.

Stringham--Inquired if the purpose of the study was to set up an ideal grazing district.

Thomas--It was a functional and organizational approach to problems within grazing districts. It was felt that a considerable amount of effort was being expended by technical personnel which could be done by clerical or administrative personnel.

Brownfield--Asked if it would be compulsory to follow the findings of the study.

Thomas--Said that in Mr. Brownfield's area the study report did not apply.

Horn--Must each district stand on its own merits?

Thomas--Generally yes. Where the findings are valid, they should be applied.

Horn--Asked if the study had been meant to fit every district.

Thomas--No, it wasn't meant that way.

Brownfield--Can the expense be justified?

Woozley--The expense would come out of our regular appropriation.

Brownfield--Asked how many additional personnel were necessary to carry out the plan.

Miller--The estimate is two to three people on an average per district.

Woozley--Mentioned Public Law 167. If people abused rights under mining privileges, for example, it was in the grazing interests, also. The $130,000 requested will be identified with the problems of grazing. Withdrawals also are tied to

grazing and it is hard to tell how these matters can be clearly identified.

Brownfield--Hoped the Bureau would have a sound basis on which we can stand before the Bureau of the Budget and that the figures could be segregated sufficiently so that they could be identified from time to time.

Woozley--Stated that every dollar will be spent for a need, for public benefit, benefit of the range, and for the benefit of related industries in Western agriculture. People will not be placed in positions unless there is a necessary job for them to do. The Bureau should not be overstaffed. An attempt is being made to develop a plan of uniformity and make it elastic enough to fit every office. A study of land offices has been made and the Bureau expects to make a study of forestry offices, also.

Stringham--Asked if additional personnel are hired, would the grazing fees be increased?

Woozley--No, it is doubtful as a lot of factors were involved.

O'Connell--Read the report of Montana 5 on the study group report.

Morrill--Suggested that another memorandum be sent to the field, clarifying the intent and purpose of the study group report.

Woozley--Agreed to this. It is desireable to have uniform pattern of administration operation and staffing, but the degree would depend upon the need in each district. If the board felt the district was properly staffed and the range manager did also, the Washington office would accept it. If the boards can find better ways to operate, their recommendations will be considered. The Bureau personnel are hired to administer and the boards are to advise us.

Gregory--Felt the clerk in his district should have a higher rating.

Woozley--Replied that many women clerks were capable and if their grades could be raised and justified that should be done. Generally speaking, the second ranking person in a district should be a man.

NONUSE OF GRAZING PRIVILEGES

Horn--Referred again to nonuse, asking if the Bureau intended to backtrack in order to arrive at equitable solutions of grazing privileges.

Jensen--All nonuse would be looked into.

Waddoups--Asked if that applied to Idaho, too.

Seely--All nonuse would be looked into and that whatever privileges were allowed would have to be supported by sufficient base property.

Stringham--Mentioned private allotments and nonuse privileges that had been issued in Utah, asking what the Bureau would do in cases of this kind.

Seely--It is the policy to allow applicants to build up to class 1 qualifications, if the range improved.

Stringham--Asked if licensees who already have licenses for a certain number but who each year ask for partial nonuse would be penalized.

Seely--They would not be penalized where the nonuse has been applied for and granted.

Kerr--Cited an example of an outfit with base property qualifying them for 2,000 sheep. In recent years they have asked for nonuse. When we adjudicate we are going to see if they actually have 2,000 head to graze the range.

Waddoups--If a man has accumulated base property and doesn't use it with his operation, what will the Bureau do about that?

Kerr--He wouldn't qualify for grazing privileges since the regulations require that base property be used.

THE PARALLEL LANDS PROBLEM

Mr. G. M. Kerr presented the Council with a summary of the situation of recognizing parallel lands as commensurate base property.

Mr. Kerr stated parallel lands have been recognized in a number of the States, possibly contrary to the provisions of the regulations. Objections will be raised if we don't continue to recognize the land. Is it necessary to adopt new regulations or a special rule to justify the recognition of parallel lands as base property?

Hay--Thought so if the lands were necessary to a year-round setup.

Hughes--Stated that there are a lot of permits in Colorado based solely on parallel lands.

Kerr--In the early days there was quite a question as to the type of land which would be recognized as base. An understanding originated which was followed by the districts in Oregon of adopting a resolution to the effect that parallel lands would not be recognized as base for a grazing permit. Utah 1 and Montana 5 did the same thing. On that basis parallel lands were recognized in all the other States. Permits and licenses have been issued for years on the recognition of parallel lands as base property. What is necessary for us to make this past action proper?

Wednesday a.m., March 7

Mr. Kerr said the parallel land question he reviewed Tuesday had been discussed with Mr. Tudor who feels that no legal problem is involved. It is something that can be settled administratively by a revision of the Code to provide for the recognition of parallel lands as base with the point being stressed that the setup of parallel lands and other base lands plus the Federal range use and possibly some supplemental feed must support a year-round operation. Special rules may be approved by the Secretary to take care of situations in districts in Oregon, Utah 1 and possibly Montana 5. The Washington Office will work out the language and submit drafts to the district boards.

CLOSE OF DISCUSSION OF REVISED RANGE CODE

Mr. Kerr said that if it met with the approval of the Council he would like to have their comments on the various proposed revisions of the Code, copies of which had been furnished them. It was moved by Mr. Lee and seconded by Mr. Hay that further discussion on the Code be ended at this time.

TIME LIMITATION FOR READJUDICATION OF GRAZING PRIVILEGES

Hughes--Every effort should be made to work out a provision for establishment of a time limit for readjudication by the Bureau. Some stockmen are buying land with grazing privileges which adds materially to their value, There should be a limitation as to when the Bureau can go back and readjudicate.

Lee--Suggested that Chairman Brownfield appoint a committee to get a meeting of minds on the subject.

Hughes--A motion had been made to accept the Code as drafted and to move on to other things with the exception that Mr. Kerr stated they were trying to work out a ruling on parallel lands and that there be an amendment to provide that the three-year limitation apply to the Federal Government as well as to the permittees.

Brownfield--Could see no reason for an amendment. The Council could make up their minds whether or not they want a statute of limitations.

Tudor--Pointed out that Section 161.6(e)(13) in the new Code is the same as Section 161.6(c)(13) in the old Code and that no change had been made. The change is only a rewording of the regulation, which merely recognizes what the Department has held in many decisions on appeal. The Department has said that the Government has a right to re-examine at any

time when there is a major defect in an original adjudication. The Director has indicated that the Bureau is not re-opening old adjudications, except where it is clear there has been an improper adjudication.

Lee--Cited certain cases in New Mexico, where no records were available as to the adjudication. A limitation would have to be put somewhere to do away with the danger of upsetting the present operations.

Kerr--Assured the group that it was not our intention to upset livestock operations. One of the provisions of the policy statement provides that priorities will not be attacked.

Lee--Mentioned the cases he referred to earlier. There was no priority involved.

Kerr--The regulations supported the board in its recommendations and to attack them at this late date would be improper.

Vaught--Not clear on the period of limitation as recommeded by the Council in which the Government might intervene.

Kerr--It would be as of three years prior to the time the final adjudication was made.

Hughes--Agreed with the idea that there should be a definite ruling on parallel lands but didn't agree that the statute of limitations should only apply to the permittee, as it is in the present edition of the Code. He felt that the permittees were entitled to that protection as users of the range.

Hay--We are voting on a motion to invoke a statute of limitations both on the permittee and the Government of the United States in the adjudication of range privileges.

Kerr--There are a number of instances of operators in Idaho who never use their base property, yet they are carrying licenses on the Federal range. Could that be attacked?

Hughes--In Colorado if they fail for two years, the license is cancelled.

Hay--Recalled that at one time each State drew up a basic yardstick stating the number of days a licensee had to make use of the Federal range. When the licensee was not on it he had to make a beneficial use of his own land. If he did not make beneficial use, then his permit was cancelled.

Lee--Where an operator does not use his base he is in violation of the rules and should lose his permit.

THE PROPOSED SOIL BANK PROGRAM

Mr. Hyatt mentioned the soil bank program and brought up the possibility of Congress passing a law to set aside some of their commensurate base property in a soil bank.

Mr. Kerr said he was acquainted with Senator Bennett's proposal; his idea is that if part of the base was placed under nonuse in connection with the soil bank plan then his grazing privileges on the Federal range would be reduced proportionately. From our standpoint it would be a good deal because we could get reduced use on our ranges that are overstocked. It is unlikely that the soil bank law will be such that it will amend the Taylor Grazing Act, so that in the case Mr. Hyatt mentioned under the regulations, the permittee would be reduced proportionately or else given nonuse on the range to that extent.

MOTION REGARDING PARALLEL LANDS

Mr. Hay called for a motion regarding the recognition of parallel lands, which was seconded by Mr. Waddoups. Mr. Kerr then stated the motion:

That the Bureau will revise the appropriate sections of the Federal Range Code for Grazing Districts to provide for the recognition of parallel lands as base property in support of grazing privileges on the public lands, in each instance requiring that the operator must have and utilize the year-round operation of the base property, Federal range, and other supplementary forage supplies if necessary. Concurrently, provision will be made for the submission of special rules to cover practices in these grazing districts Utah 1, all Oregon districts, and Montana 5 to be continued in full force and effect. As these revisions of the Code are completed they will be submitted to the grazing district advisory boards and the National Advisory Board Council for consideration and recommendation.

The motion carried unanimously.

THE TEN-YEAR ANNIVERSARY REVIEW OF QUALIFICATIONS AND GRAZING CAPACITY OF THE RANGES

Mr. G. M. Kerr described the action which is taken after the adjudication work is completed; the issuance of the term permits and the course of action at the expiration of the permit.

Upon the expiration of a 10-year permit, the range situation is reviewed to determine what has taken place over the 10-year period, using range condition and trend and utilization

studies. The qualifications of the permittee's base property are checked--does he still have the base property on which the permit is based, is production adequate to take care of the livestock, etc? Adjustments will be made only where the range shows a downward trend. It may be that a seasonal use change should be made; in some cases it might require some reduction in numbers. If the range has been rebuilding during the past 10-year period and more forage is available than required for current permitted demand, consideration will then be given to the issuance of additional grazing privileges to the extent of the additional forage. Ten-year permits are expiring this year in some districts. If the adjudications made upon which the permit is based were sound then they are renewed. Mr. Kerr then reviewed the situation found in the Gooding-Shoshone Units in Idaho.

Vaught--Asked if it was the desire on the part of the Bureau to separate classes of livestock.

Nelson--No, it was not, on every range.

Brownfield--Asked to inquire into the Idaho situation.

Seely--At the present time a board meeting was in session which was taking action in the Unit. There was no way of knowing what the board's final actions would be at this early date.

Kerr--As a means of expediting the adjudication of range privileges some Nevada boards have recognized the need to speed up the work and recommended the employment of temporary people. When the adjudications were completed these people would be terminated. The appropriations limit new employments. The appropriation for 1957 will be the same as it is this year, with the exception of the $130,000 for work on the mineral laws. There is no great expansion anticipated in employments.

Vaught--If a district was in the process of adjudication and has sufficient funds to employ an individual would it be their prerogative to do so.

Kerr--It would have to have the approval of the Area Administrator.

EFFECTS OF MILITARY & A.E.C. WITHDRAWALS ON THE GRAZING ECONOMY

Lee--Observed that population increase and land withdrawals were endangering the operation of the Taylor Grazing Act.

Waddoups--Said they took a reduction in proportion to the amount of grazing allowed in a withdrawal in his area and that the A.E.C.

refused to give them any more than a year to year operation, which is not a stable operation for any livestock man.

Brownfield--Cited cases in New Mexico where 45 ranchers were put out of business because of a military withdrawal.

Waddoups--The ranchers in the A.E.C. area were paid for private lands but not for the range rights.

Kerr--Under the law it is the responsibility of the agency requesting the withdrawal to determine whether the withdrawal is for war or national defense purposes and whether the range users are entitled to compensation.

Lee--Regarding the A.E.C. withdrawals, in New Mexico the A.E.C. made a big game preserve and didn't conform to New Mexico State game laws. It might be a good thing to look into because there is a bill before Congress now to require military reservations to conform to State game laws. The bill is H.R. 2777.

Chance--Wanted to know if they were going ahead with the Navy withdrawal in Bishop, California.

Kerr--Action was being withheld on it at the present time.

Chance--Asked if there would be any way to administer grazing.

Kerr--An agreement would be drawn up on what grazing would be permitted and who would have jurisdiction over it. These matters will have to be worked out. In this particular withdrawal cattle grazing will be permitted, but sheep grazing probably will not.

Brownfield--A bill was being drawn up for the purpose of limiting withdrawals to 5,000 acres unless Congress consents to a larger acreage.

Wednesday p.m., March 7

REVIEW OF LEGISLATION IMPORTANT TO GRAZING

Mr. R. K. Pierson discussed the current proposed legislation which is of concern to grazing administration.

Among the bills introduced before the Congress he mentioned H. R. 9179 which would prohibit the use of Federal lands for the production of agricultural commodities, including livestock. The bill applies to public grazing lands; it would end all public land grazing. It is now in committee and the Department has submitted an analysis on it. There are a series of bills along this same line.

H. R. 2629, introduced in the first session, 84th Congress, would amend the Taylor Grazing Act by deleting some of the language in Section 3 and amending the language in Section 18. The language in Section 3 which would be deleted reads "* * * as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them, except that until July 1, 1935, no preference shall be given in the issuance of such permits to any such owner, occupant, or settler whose rights were acquired between January 1, 1934 and December 31, 1934, both dates inclusive, except that no permittee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan. * * *." The latter exception is known as the "McCarran amendment." Some of those responsible for the bill were under the impression the McCarran amendment was difficult to operate under, and of course it is not. The language change in Section 18 would abolish the present advisory board system and would substitute multiple-use advisory boards which would include one livestock representative. It would also delete the language relating to review of regulations by the advisory boards and their consideration of grazing matters. The bill was set for a hearing last May 6, but the hearing was cancelled because the Department of Agriculture had submitted a report which indicated no interest.

There followed a discussion on water bills.

Mr. Pierson also referred to Public Law 264, 84th Congress which provide that persons carrying out conservation practices on Federally owned noncropland are entitled to apply for and receive cost sharing payments under the A.C.P.

REVIEW OF WITHDRAWALS OF PUBLIC LAND FOR MILITARY, WILDLIFE AND OTHER USES

Lands Officer Harold Hochmuth discussed the various policies and current status of withdrawals in the United States as they affect the livestock industry.

For the past six weeks or more, the House Committee on Interior and Insular Affairs has been conducting hearings on the current withdrawal policies of the Department of Defense. Assistant Secretary D'Ewart and representatives of the Bureau appeared before the Committee to testify on withdrawals. The Assistant Secretary outlined the various laws of Congress and pointed out the present policy of the Department. The Committee has indicated that the hearings will result in legislation and will concern three subjects: (1) Wildlife resources as it relates to control by State Fish and Game Departments, (2) Control of Water and (3) Extent of the withdrawals in the future.

Figures were presented to the Committee which showed that the Department of Defense has 18 million acres currently under withdrawal with an additional 8 or 9 million acres under application for withdrawal. The Secretary of the Interior has suspended all action on application for withdrawals by the Defense Department while the House Committee is conducting hearings on the subject.

Lee--Asked if the Secretary of the Interior had the authority to disapprove an application for a withdrawal from the Department of Defense, since that Department may be stronger than the Department of the Interior.

Hochmuth--The Secretary may disapprove an application for a withdrawal. If the Department of Defense contests the disapproval, the application may be given to the Bureau of the Budget for its consideration.

Garrison--What are the types of withdrawals for wildlife purpose?

Hochmuth--There are three principal types: (1) A withdrawal for National Wildlife Refuge, (2) Game Range, or (3) State Fish and Game Commission application to the Fish and Wildlife Service.

Lee--When the Army requests land, no one in the Department knows what the result of the granting of the withdrawal will be upon the local economy. The Department cannot get all the facts to ascertain the need of the Army. In all other withdrawals, for instance, Interior or National Parks, one can get all basic effects on the people and the State.

Hochmuth--We can determine only the economic effect on the land. We have no way of knowing just how necessary the proposed withdrawal is for National Defense. By not having all the information, we cannot oppose some of the withdrawals.

Lee--Asked how Washington obtained information from the field as to the purpose and necessity of a withdrawal.

Hochmuth--An example of this is New Mexico. I contacted Wallace, the Area Administrator, who in turn contacted the State Supervisor of New Mexico and it was found that the land was withdrawn for an exchange program between the National Forest and the State of New Mexico.

Lee--The Bureau should have some source to check on these withdrawals without having to go the States. As it is now, one has no way of knowing.

Brownfield--How does the Bureau propose to determine the justification for keeping land in a withdrawn status and the need for further withdrawals?

Hochmuth--The Bureau maintains records of all current and pending withdrawals. The Bureau has never set up a coordinated system to follow through, but is going to have one man handle this matter in the future under a system of continual review of past and pending withdrawals.

Morrill--A letter of May 11th from the Fish and Wildlife Service requested an area for withdrawal in my area to be turned over to the State for management after the land had been classified for disposal. What is the action taken on cases of this type?

Hochmuth--That is an application that has been filed under the Coordination Act. The Bureau is in a position to be a referee. Hearings will be scheduled in which the Fish and Wildlife Service and the State Game Commission will establish their reasons for objections. We receive a report from our State Supervisor which is sent to the Secretary's Office. The Bureau takes no position in the matter.

O'Connell--Asked if the Taylor Grazing Act and the various recommendations of the Advisory Boards affected the decision as to the withdrawal.

Hochmuth--Their recommendations and resolutions carry a great deal of weight. We cannot decide what principles are involved. Again, we act only as a referee. The best way is to work it out on a local level. The law states that we must process the applications. If there are any objections, a public hearing is held. Any application for a withdrawal is studied very closely as to what the future may be for the area. We just don't rubber-stamp the applications.

PUBLIC LAWS 167 AND 359 WITH THEIR EFFECT ON BUREAU PROGRAMS

Public Law 167

The Federal mining laws were designed to encourage individuals in prospecting, exploration, and development of the public domain. Under such laws, prospectors may locate a mining claim, search out its wealth, and, if a discovery of mineral is made, obtain a patent. Patenting of a claim is optional. The Federal laws require two things in connection with mining claims: (1) The discovery of valuable minerals; and (2) the marking of boundaries so they can be readily traced. The laws of a State, as well as regulations of local mining districts, when not in conflict with provisions of U.S. Mining Laws, must be observed by the mining locator.

Very few changes have been made in mining laws since enactment of Mining Act of 1872. The first major change was passage of Mineral Leasing Act of 1920. Since that time, Congress and Federal-administrative agencies have been faced with conflicts between mineral and nonmineral users of the public domain. Certain aspects of these laws have been subject to abuse which resulted in two problems: (1) First was the problem of competing subsurface or mineral development uses. Through combined efforts and cooperation of the mineral industry, Bureau of Land Management, and by Congress, Public Law 585 was passed. (2) Second was the problem of competing surface and subsurface uses, between mining claimants and other users of the public domain.

Due to defects in the Mining Law of the Mining Laws of 1872, there have been temptations to use mining claims for nonmining purposes such as filling stations, curio shops, summer homes, etc.

These abuses, and the necessity for corrective legislation to permit the multiple use of the surface of the same tract of public land, were recognized by Congress, conservation organizations, mineral industry, and the interested administrative Federal agencies alike. As a result of the efforts of the above interested parties, corrective legislation, embodied in Public Law 167, became effective July 23, 1955.

1. Amends the Materials Act of 1947 to prohibit future location and removal, under the mining laws, of common varieties of sand, stone, gravel, pumice (under 2" in size), pumicite, and cinders, by specifically requiring disposition of these materials under the Materials Act.

2. Amends the Materials Act of 1947 to give the Secretary of Agriculture authority to dispose of mineral materials such as sand, stone, gravel, pumice, pumicite, cinders, and clay, as well as vegetative materials such as yucca, monzonita, mesquite, cactus, and timber, located on lands under his jurisdiction.

3. Amends the general mining law to prohibit use of any mining claim located after the date of this act for any purpose other than prospecting, mining, processing, and related activities.

4. Amends the general mining law to limit the rights of a holder of an unpatented mining claim in his use of the surface and surface resources.

5. Establishes an in rem procedure whereby surface rights to invalid, abandoned, or dormant mining claims,

located prior to the passage of this act, may be expeditiously resolved.

In other words, Public Law 167 provides the managing Federal agency with control of surface resources not needed in actual mining operations. Mining claims located after July 23, 1955, cannot be used for any purpose other than prospecting, mining, or processing operations.

The mining laws will continue to protect and reward the individuals who seek out and develop the Nation's hidden mineral resources, but will also provide for more efficient management and disposal of vegetative surface resources on these claims.

The Bureau plans for operations under Public Law 167 for the coming fiscal year include investigations in almost all of the 11 Western States. Under Sec. 5, action will be initiated to determine surface rights on those areas where the interference of unpatented mining claims is deemed to adversely affect the efficient and proper management of lands. The Bureau contemplates a 5 to 10 year program under this law. It was pointed out that it was not the intent of the Bureau to examine all claims on all public lands, but only those areas where the proper surface management is hindered by the presence of claims. As a result of this law, the Government will be able to more effectively manage and dispose of the vegetative surface resources of the public domain and provide greater utilization of our natural resources.

Public Law 359:

This law restores to mining location some $7\frac{1}{4}$ million acres of land that had been set aside as water and power site withdrawals. The new law requires prospectors to notify the local land office of the Bureau of Land Management of any mining claims made on power site withdrawals, and to wait 60 days before starting mining operations if the claim is a placer location.

It is felt that under the two laws mentioned, and other similar legislation recently enacted, great progress has been made toward the multiple use of our public lands, and its better utilization by both mineral and nonmineral users.

Doyle--The Federal laws consider only how the lands being claimed for minerals should be staked and patented. What laws apply as to how the assessment work is done and how improvements are accomplished on the mining claims was asked.

Shafer--Most of the States have their own laws as to what type of work is to be done for assessment work, of course, the patenting procedure is prescribed under Federal law.

Hyatt--In a National Forest, several individuals staked several claims in the bottom of a canyon. They then proceeded to fence the land, construct a road upon it and use the land in conjunction with a hunting camp. They destroyed the vegetation, blocked access to the area and damaged a bridge with heavy equipment. No action was taken against these men.

Shafer--As the problem you describe occurred in a National Forest, I have no personal knowledge of any action taken against the offenders. As P.L.167 begins to function, these incidents will be promptly cared for.

Tudor--Mr. Hyatt stated that the bridge which was damaged is government property. It seems that a local Federal attorney should be advised so the men can be prosecuted for damaging Federal property.

THE SMALL WATERSHED ACT, P.L. 566

Mr. R. K. Pierson said the suggestion had been made by a Council member that a discussion be included of the Small Watershed Act,Public Law 566, 83rd Congress, 2nd session.

The act is extremely popular over the United States as a whole. There are about 16,000 small watersheds eligible for assistance under Public Law 566.

The Council's particular interest centers around how the Bureau cooperates with the Department of Agriculture in carrying out the purposes of the act. Section 5 of the act directs the Secretary of the Interior to cooperate with the Secretary of Agriculture in those watersheds containing public lands, reclamation developments or other interests of this Department. In addition, every watershed proposal submitted to the Secretary of Agriculture is referred to Interior and the Corps of Engineers for review as to flood control potentials.

The act is extremely complex from the standpoint of administration. At the time the legislation was under consideration in Congress it had to be reconciled with existing agricultural programs. The law says beneficiaries will participate and share costs in proportion to the extent they are benefitted, requiring a complicated analysis of costs and benefits. After applications are received it may be three years before work is started because of the complications in the act. The plans have to be reviewed

by Congress before funds are appropriated to carry out a program. After a few unfortunate experiences involving public land proposals, a directive was issued to the State Soil Conservation Districts that no further proposals should be made without the full consent of land-administering agencies. Amendments have been introduced to make the act more workable and also to change the financing of the program.

There are only two plans which have been completed for watersheds embracing public lands, and the Bureau has taken exception to both of them because they do not protect the public lands. The requirements include P.L. 566 financing for land treatment measures but structures must be financed by the sponsoring group, which must have authority for entering into contracts, obtain easements, etc.

A year ago the Department of Agriculture issued a set of rules for conducting the program and later similar instructions were issued for Interior agencies. (See Appendix H for policy statement) Cooperation is confused, to say the least, and it is not possible to give a clear statement as to future procedures at this time.

Hay -- Thought Mr. Pierson had given a clear-cut analysis of the situation. His concern a year ago was that if any development on land administered by BLM was made, the Bureau should make that development. Water is our richest resource, and we are all dedicated to preserving it and making it better. There was further concern of the fact that another organization to administer water conservation would remove the function of management from both Agriculture and Interior. This should not happen. A year ago, three areas were proposed in Wyoming. Since that time two were eliminated and one approved and submitted to Agriculture, but it was later rejected because proposed reservoir capacity was too great. A resolution received from the Shoshone Soil Conservation District and an editorial appearing in the Salt Lake Tribune dated January 24, 1956 were read, which bore out Mr. Hay's concern.

> Pierson -- Observed that the resolution prepared by the Shoshone Soil Conservation District was not even considered at the annual meeting of the National Association of Soil Conservation Districts held in Boston last February. It is doubtful if there will be anything more about it.

Hay -- If a water facilities sponsoring group is created, they will take control of everything.

Stringham -- Several times Mr. Lee has warned us of increasing population and withdrawals and the resulting danger to the Taylor Grazing Act.

Brownfield--The Bureau should be urged to be more vigorous in its efforts to watch over and take care of its lands so that they will not be taken away and administered by another agency.

THE ACCELERATED S. & M. PROGRAM

In connection with the S & M program, Mr. Pierson said that to get good distribution of projects in a particular State the watershed program is set up on the basis of working on the worst country first. The program has been established on that basis and in the current fiscal year work is progressing in 127 community watersheds. Generally speaking, they are small drainages. There are limitations on the control of runoff by conservation work. Under P.L. 566, it must be shown that a project contributes significantly to reducing flood hazard, which is a discouraging aspect in trying to get watersheds lined up. The Geological Survey has been asked to supply any sedimentation information on lands known to be in bad shape. Under P.L. 566, the selection and approval of areas is largely a matter of enthusiasm of the sponsoring group. The Mill Creek-Sage Flat watershed wasn't in BLM long range plans due to its condition, but there is a flood hazard involved. As far as the condition of Federal Range is concerned, it would be many years before this watershed would be included in the S & M program. For the 1957 fiscal year, work is planned in 138 small watersheds, but they will not be eligible for funds under P.L. 566.

In all districts there is good integration of S & M work and grazing use. Improvements are installed only where a definite management need exists.

Vaught--Where a cooperative program has been worked out under P.L. 566, is the administration of the land provided for and does the management of the land stay with the Bureau?

> Pierson--In our experience the sponsoring group has been the local soil conservation district board of supervisors. The Bureau enters into a cooperative agreement with the board which specifically provides that the administration of the land is not affected. In SCS complete ranch plans a statement is inserted that any provision for range improvements must be in accordance with the grazing permit or license issued to the user.

Thursday a.m., March 8

THE WILD BURRO PROBLEM

Mr. Max W. Bridge led a discussion on the wild burro problem which is similar to that of wild horses.

Burros in the Southwest are quite a serious problem although many people think they are fine animals to have around. They are reported to multiply practically like rabbits and to compete with livestock and game animals for water and forage. The California State Game Department early recognized this and publicized the fact that there was no closed season on killing burros. This resulted in a storm of criticism from humane society groups throughout the State, who brought pressure on the State legislature for complete protection of burros. In the summer of 1953, a public hearing was held by a Senate subcommittee in Bishop, California. At that meeting a sub-committee of the local advisory board with the concurrence of the District Range Manager, recommended that two areas be set aside as a burro preserve. Both are largely desert in character where very little livestock use takes place. The Senate sub-committee was in favor of this approach but wanted a larger area than the tract suggested. The State had previously passed a burro law to remain in effect for two years which removed control of burros from the State game department and made it unlawful to harm burros in any manner whatsoever. Since no agreement resulted from the hearing the burro law was extended for another two years, running through 1957. The State law now completely protects the burro and makes it unlawful to kill or remove them to another area.

The National Park Service has also had some trouble with burros. In Death Valley National Monument burros compete with the desert big horns which the Park Service is trying to maintain in the preserve. Eventually, a home for the burros should be established where they will not seriously compete with other game animals and livestock.

The burro population in Arizona is now estimated to be 1,100 animals, although in 1950, there were twice as many. The Bureau and the State have worked up temporary control measures which are now holding the populations fairly well in check. Therefore, the problem isn't too serious in Arizona at this time.

Brownfield--Asked for comments and suggestions.

Evans--I am acquainted with some of the problems in the Southwest. . . . In the dry years burros dig the grass by the roots. Five or six years ago Bureau employees and some ranchers killed over 300 burros in an effort to control the numbers. . . Since then nobody

has been able to go out there due to the passage of the law. In that part of California they will have to be controlled. There are just 2 or 3 areas where burros now are allowed. As time goes on and the burro is turned out on the range where will it go? The Navy wants to take over within their present withdrawal and dispose of the burros.

Bridge--If the Navy enters into the problem, that will add to the confusion.

Evans--There are a lot of burros within the Navy withdrawal. Burro lovers go around Palm Springs and Death Valley just to see a burro. . . . Although about 300 were killed five or six years ago, there must be at least a 1,000 burros in there now.

Doyle--As long as the State law protects the burros in California the problem must be settled with State authorities. They are working to take care of that problem now. There are several areas that carry burros in increasing numbers, but it is certain we can work things out with the State.

Brownfield--Possibly the Council should recommend that the State pay grazing fees to help out in administration of burro areas.

Bridge--This seems to be a case where all the land managing agencies and all range users are in agreement on what should be done.

Chance--I attended the sub-committee meeting in Bishop;State-wide legislation is not wanted. There is no objection to the burros using Saline Valley if they are held in reasonable control.

Brownfield--Isn't it possible to round up burros and impound them?

Chance--You can get into a lot of trouble killing horses. An attempt to get another bill through will have a lot of competition.

Doyle--People don't object to trapping them and taking them alive, but they have a very serious objection to shooting them. The humane society members of Los Angeles are the ones trying to protect them.

Brownfield--If burros are being classed as wild game animals, let's have some suggestions from wildlife members.

Gregory--We have a problem with game, but not burros. The burro problem is a local problem.

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P.O. Box 25047
Denver, CO 80225

Kidd--In Navada and Idaho there is a lot of trouble with wild horses. No one is sympathetic toward horses. They round them up with airplanes and shoot some of them. Wild horses should belong to somebody. This is a problem of the State but not of the county. If these horses all had to be taken up and fed hay in wintertime there wouldn't be very many people anxious to take care of them.

Brownfield--Would you recommend that all burros be classed as predators and any livestock that isn't licensed, such as wild unclaimed horses, be removed and destroyed?

Kidd--I am willing to make that motion.

John Hay--I'm from Wyoming and will have to object to that as there is a State law that regulates these matters. Regulation of wild animals is under State law. I would recommend that the Council members work with local advisory boards and permittees, and then get together with the State to work the problem out. To say that all burros are predators would not be correct--there are many gentle burros used as pack animals. Some people become attached to them and it might become a serious problem. The problem should be approached from the State level.

Morrill--Would you say that our present laws are in conflict with State law?

Hay--About 5,000 wild horses have been shipped out of our district in the last few years by working with ranchers. At first everyone was against the disposal of wild horses, but by a long process the disagreement was settled.

Morrill--If the Bureau has to abide by State law then what good is our trespass law?

Hay--It must be done under State laws.

Kidd--If the people have let this thing get out of hand by leaving it to State laws something should be done at a higher level.

Stringham--Should the Council recommend that the advisory board consider burros and horses as useless and unclaimed animals?

Hay--You know what happened to the Bureau with those Indians in Utah and their horses.

Bridge--There is one important distinction between burros and unclaimed horses. Horses have never been classified as wild animals under State law, although Wyoming at one time threatened

to do so. California has done this with burros and has declared them to be wild animals under the protection of the State.

Gregory--The same situation is present in Montana. The owner has the right to come in and claim any branded animals.

Brownfield--Any more discussion?

Hay--What is the motion?

Brownfield--That unlicensed burros be classified as predators and handled under Federal trespass law.

Bridge--I'd like to suggest that some other word be used in place of predator, since a predator is usually classed as an animal which preys upon other animals.

Gregory--Recommended a change in the wording to useless animals. Any animal hindering proper management of the public domain should be classed as useless.

Brownfield--Will the Council recommend that wild burros be classed as useless animals.

Stringham--Made a motion that the various State advisory boards classify burros and unclaimed horses as useless animals.

Hay--I second it.

Hughes--I want to correct one matter for the record. The Bureau does have jurisdiction to protect the range. There are too many burros on the range and if the Bureau is going to protect the range they will have to make good on that. The Fish and Wildlife had a lot of trouble and the BLM will have the same. It is a mistake to think that the State has full control. In Arizona they have forest trespassers arrested under State law. The government has a right, just as individuals, to protect their property. Any Federal bureau charged with management of land has the right to protect that land from unlawful use.

Arrien--Many animals are not useless even though not licensed.

Evans--Might say unclaimed animals.

Brownfield--Asked for a vote on the motion. Motion carried unanimously.

CRITERIA FOR APPROPRIATE BALANCES IN WILDLIFE USE

Mr. Bridge then discussed the general procedures used by the Bureau of Land Management in game management for use in conjunction with grazing administration.

The Bureau gives fair consideration to all the demands for use of the Federal Range. The matter of deciding proper numbers of game and livestock in an area oftentimes creates problems. No rules can be set down which will automatically give the proper number of deer or other game animals for an area. Bureau personnel have worked with other Federal agencies and State game departments for a number of years trying to arrive at the answer to some of these questions. Generally, the areas to be studied are divided into sub-areas, the divisions being made by natural geographic boundaries, by areas of use, by types of vegetation, and in similar ways.

When working with a sub-area or natural use unit it is possible to consider a number of economic and social factors which influence the area. The needs of the livestock industry will be in the records maintained by the District offices. The needs and desires of the local sportsmen's groups will usually have been made a matter of record. The programs and projects of other adjoining Federal and State land administering agencies must be ascertained. The State game and fish departments as owners of game will have a strong voice in the program to be carried out. The range area itself must be looked at with a critical eye to determine its present condition and expected potential.

Once a management plan is established for an area, the follow up work takes on first importance. Such matters as establishing range condition and trend studies, making periodic utilization checks of forage use, keeping abreast of changing trends in game populations and planning a range management program for rehabilitation and improvement of the range are vital to the successful management of the area.

The one most important aspect of the whole problem of game management is that cooperation of all interests is essential to success.

Lee--What is the average game kill? It is only about 10 per cent, isn't it? If some method could be established so the hunters could make better kills, it would help. This could be done by cooperation with the ranchers or some other way. If possible, hunters should get their game with the least amount of damage to the ranchers.

Bridge--Heavy game populations on BLM lands are often due to the fact people can't get in to hunt. Some ranchers have

had trouble with hunters, so they won't allow access across their private lands into huntable areas.

Lee--There should be a program in the Department that would prove to the ranchers that hunters can have access to their private lands without much damage. The possibility of cooperation with the State and the private land owner should be studied.

Bridge--The cooperative road building program has done much to help the hunters to gain access in some areas.

Brownfield--The Secretary is expected to appear, but we should hear more from the wildlife representatives on this matter.

Kidd--There is little trouble in Idaho, unless it's a matter of getting hunters into areas. There is one more thing I would like to say. When the range surveys are made to obtain carrying capacity for livestock, survey data should also be obtained to give carrying capacity for deer or elk. It appears there could be more information given as to how many animals the State should expect to have. If the carrying capacity for game is known, the problem would become clearer. When surveys are conducted, all forage plants should be listed.

Horn--In Colorado, that has been done. We have a pretty good idea what wildlife forage is available.

OPEN DISCUSSION WITH CONGRESSIONAL, SECRETARIAL AND OTHER OFFICIALS

Secretary McKay addressed the Council members as the first speaker of that portion of the meeting devoted to the Secretariat and members of Congress.

Secretary McKay--It is always a pleasure for me to meet with groups such as yours. We in Interior are firm believers in advisory committees from the industries engaged in developing the natural resources managed by this Department and we make good use of them.

We need your advice and counsel on matters affecting the welfare of the livestock industry dependent upon the grazing resources of the public lands. That is why we welcome this opportunity each year to sit down around a table with you and learn first hand about the problems arising from our management policies and your recommendations for their solution.

Needless to say, we are deeply appreciative of your public-spirited devotion to the principles of proper management and conservation of the public lands. You are busy people, yet

you have taken valuable time from the demands of your ranches and private affairs to lend your help in reaching a common goal.

While we are most grateful to you for the many occasions on which you have rendered needed service to this Department, I particularly want to acknowledge your assistance on two important matters -- grazing fees and the Federal Range Code.

Frankly, and as you are all well aware, we had to do something about the grazing fee situation to meet the swelling volume of criticism leveled at us from several directions. With your help I believe we have developed a practical and realistic basis for charging reasonable fees that follows the letter and spirit of the Taylor Grazing Act and also answers our critics.

The Federal Range Code is a unique body of regulations in that it had its origin out on the range rather than on an attorney's desk. Since its first adoption by the Department in 1938, time and experience have revealed the need for periodic revision and improvement to better attain the objectives of the Taylor Grazing Act.

In the 1956 revision of the Range Code we have endeavored among other things, to bring the Code up to date with recognized practices, to remove known inequities and to generally tighten up the provisions for improved management of the range.

Above all things we wanted assurance that the revised Code would provide fair and equitable treatment for all qualified users of the Federal range. It is here that we needed your help and the help of the district advisory boards so that when the revised Code came to me for approval, I could act with the knowledge that the new Code had full range user review and general acceptance.

With the new Code effective on January 22, 1956, it is expected that each and every range user will adhere faithfully to the rules. Should a user feel aggrieved by an adverse decision, he should take recourse in the appeals procedure provided for by the Code which gives full assurance of a fair hearing.

I mention the two foregoing examples of your assistance to the Department as forceful evidence of why we believe in the advisory board system. There are many others.

Assistant Secretary D'Ewart--Told the Council that the meeting was especially well timed since Congress was in session and had before it many matters requiring the attention of Council members.

He described P.L. 167 as a good law, and while not perfect it can achieve many of the desired results in correcting abuses under the U. S. mining laws.

Assistant Secretary D'Ewart had attended the North American Wildlife conference at New Orleans earlier in the week. He described a draft of a bill he had seen there which would exclude grazing and mining operations on wilderness areas in national forest with adverse effect on the livestock industry.

As a result of studies conducted both in the Department and with other Federal agencies, a new water code has been developed. There is a need for similar treatment governing the use of Federal land.

He described some of the legislation affecting water rights now before the Congress, such as Senator Barrett's bill which has considerable support. He told the Council that the Department is in need of more local help in managing public lands.

Assistant Secretary Wormser--Spoke very briefly, offering the assistance of Interior agencies under his jurisdiction in solving problems of destructive mining activities on public grazing land.

Congressman Dixon of Utah -- Made the observation that the House Agricultural Committee had only three members from States west of Nebraska, whereas there were 33 members from southern States. As a consequence, Southern agricultural problems receive dominant consideration and Western agricultural problems are sometimes overlooked. He stated that he would apply his efforts to obtain better recognition for Western agriculture, including the needs of the livestock industry.

Congressman Dixon discussed at some length the various conflicts in use on public land ranges and the impacts of sharp reductions in stocking rates upon ranchers. He proposed that some public land range be placed in the so-called Soil Bank until its productivity could be restored. He especially acknowledged the help he had received thus far from Council members and expressed the hope that he could continue to look to them for assistance in the future.

Congressman Thomson of Wyoming -- Thanked the Bureau for arranging the joint session with members of Congress and for the opportunity of his making an appearance before the Council. He especially welcomed the opportunity for obtaining opinions directly from the range users. He emphasized Assistant Secretary D'Ewart's remarks on the need for water legislation and a re-examination of

the need for public land withdrawals as now being investigated by the House Interior and Insular Affairs Committee. He also made reference to legislation introduced to exclude public land grazing as a means of avoiding surplus agriculture products. He voiced the opinion, however, that such legislation would have only a slight chance of passage.

Brownfield--Asked Mr. D'Ewart for his opinion on the need for public land withdrawals.

D'Ewart--Quoted at length from the statement which he presented before the House Interior and Insular Affairs Committee in connection with their investigation of public land withdrawals. (A copy of Mr. D'Ewart's statement is in Appendix G)

Assistant Secretary D'Ewart emphasized that all future withdrawals will be carefully scrutinized for justification, recognizing that invariably some will be needed for administrative sites, experimental areas, and for similar reasons. He stated that at the present time the Department is particularly concerned with the status of water rights on withdrawn public lands.

Hay--Asked if there was any difference between subsurface and surface water rights on military withdrawals.

D'Ewart--Cited a Nevada case which indicated that there was no difference. In this instance the military did not renew a well permit with the State because of the Pelton Dam decision in Oregon.

Brownfield--Reminded the Congressmen present of the actions taken by the Council on recommending unclaimed burros be classified as useless animals. He also stated that there was a question in the mind of the Council on the application of P.L. 566 as to proper representation of Interior land managing agencies on local sponsoring groups and possibly areas of conflict between P.L. 566 and State laws.

Stringham--Asked Assistant Secretary D'Ewart about the broad authority vested in the Secretary by the Antiquities Act.

D'Ewart--Agreed that broad powers were conferred upon the Secretary under this Act, but requests for the establishment of national monuments under the Act must come from local people and the monuments must have national significance and interest. It is his opinion that the law has not been abused.

Brownfield--Reminded the Congressmen present that pending legislation for removing livestock from public land ranges would be extremely dangerous because ranches would be liquidated and the run of livestock to market would deflate prices thereby depressing the entire livestock industry.

Congressman Dixon--Invited the reaction of Council members to the Soil Bank and Conservation reserve proposals which may retire some range land from grazing use. He stated he was seeking some solution to the serious impact upon stockmen resulting from reductions in stocking rates setting of range land under proposed farm programs.

APPENDIX A

Contributions to Completed Projects
Fiscal Year 1955

	Soil and Moisture		Range Improvement (In) 1/		Range Improvement (Out) 2/		Private (In)	Private (Out)	Halogeton		Total		
	Range Users	Others	Range Users	Others	Range Users	Others	Range Users	Range Users	Range Users	Others	Range Users	Others	Combined
Washington	-	-	-	--	3,972	-	-	-	-	-	3,972	-	3,972
California	29,461	-	5,573	7,419	19,922	1,581	1,429	7,325	-	1,900	63,710	10,900	74,610
Oregon	35,743	8,639	44,216	4,760	1,983	-	4,529	-	147	-	86,618	13,399	100,017
Area 1	65,204	8,639	49,789	12,179	25,877	1,581	5,958	7,325	147	1,900	154,300	24,299	178,599
Idaho	11,544	4,568	14,629	2,303	1,042	50	39,952	10,886	23,828	4,429	101,881	11,350	113,231
Utah	23,806	3,612	58,087	6,400	-	-	7,055	-	19,470	178	108,418	10,190	118,608
Nevada	31,521	652	49,323	8,463	-	-	28,823	-	48,384	6,280	158,051	15,395	173,446
Arizona	25,573	2,340	17,762	900	6,647	-	385,869	82,614	-	-	518,465	3,240	521,705
Area 2	92,444	11,172	139,801	18,066	7,689	50	461,699	93,500	91,682	10,887	886,815	40,175	926,990
Montana	1,950	327	21,963	-	22,068	-	37,301	42,062	-	-	125,344	327	125,671
Wyoming	987	419	35,850	1,649	9,469	48	44,458	35,074	5,456	3,185	131,294	5,301	136,595
Colorado	5,947	7,451	18,613	1,273	9,711	3,900	26,412	9,776	-	-	70,459	12,624	83,083
New Mexico	26,366	2,327	31,709	5,376	-	-	483,888	5,500	-	-	547,463	7,703	555,166
North Dakota	-	-	-	-	985	-	-	925	-	-	1,910	-	1,910
South Dakota	-	-	-	-	-	-	-	500	-	-	500	-	500
Area 3	35,250	10,524	108,135	8,298	42,233	3,948	592,059	93,837	5,456	3,185	876,970	25,955	902,925
Grand Total	192,898	30,335	297,725	38,543	75,799	5,579	1,059,716	194,662	97,285	15,972	1,918,085	90,429	2,008,514

1/ Inside grazing districts
2/ Outside grazing districts

Obligations F.Y. 1955 Soil and Moisture	$1,700,779
Obligations F.Y. 1955 Halogeton	646,640
Obligations F.Y. Range Improvement	531,802
	$2,879,221

Total expenditures, Public and Private = 4,887,735

Contributions as per cent of total program = 41.12%

APPENDIX B

FEDERAL RANGE IMPROVEMENT PROJECTS: CONSTRUCTION
Fiscal Year 1955

Type of Project	Unit of Measurement	Arizona	California	Colorado	Idaho	Montana	Nevada	New Mexico	North Dakota	Oregon	Utah	Washington	Wyoming	Total
Outside Grazing Districts:														
Brush Control	Acre	2,040	125	-	-	-	-	-	-	-	-	960	-	3,125
Corrals	Number	-	-	1	-	-	-	-	-	-	-	-	-	1
Fencing	Mile	16	24.4	3	2.3	40.6	-	-	4.6	6.3	-	9	26.4	133
Fuel Storage Tanks	Each	-	-	1	-	-	-	-	-	-	-	-	-	1
Pest Control	Acre	-	-	17,476	-	-	-	-	-	-	-	-	-	17,476
Pipelines	Lin. Ft.	-	26,648	-	-	-	-	-	-	-	-	-	-	26,648
Reseeding	Acre	-	90	-	-	-	-	-	-	8	-	280	42	420
Reservoirs	Number	-	-	-	2	6	-	-	-	57	-	1	9	75
	Cu. Yd.	-	-	-	-	12,030	-	-	-	79,800	-	15	37,263.7	129,109
Springs	Number	-	4	-	4	4	-	-	-	-	-	2	-	14
Trails, Truck	Mile	-	-	-	-	-	-	-	-	2.5	-	1.5	-	4
Wells	Number	-	1	-	-	-	-	-	-	-	-	-	-	1
Within Grazing Districts:														
Boundary Posting	Mile	-	-	190	-	-	-	-	-	-	60	-	-	250
Bridges	Number	-	-	-	-	-	-	-	-	-	-	-	1	1
Building Maintenance	Number	-	-	-	-	-	-	-	-	1	-	-	-	1
Cattle Guards	Number	2	-	2	7	1	8	4	-	4	1	-	2	31
Corrals	Number	-	1	-	-	-	-	1	-	-	-	-	-	2
Equipping Wells	Number	-	-	-	-	-	1	-	-	-	-	-	-	1
Fencing	Mile	35	10.6	24	13.6	33.3	132.7	48	-	47.1	40.9	-	50.1	435
Fuel Storage Tanks	Each	-	-	1	-	-	-	-	-	-	-	-	-	1
Line Camp	Number	-	-	-	-	-	-	-	-	1	-	-	-	1
Pest Control	Acre	-	-	550	-	20,000	20,000	1,752,950	-	15,000	7,300	-	-	1,815,800
Pipelines	Lin. Ft.	3,300	3,250	-	-	-	8,320	-	-	-	-	-	-	14,870
Predator Control	Project	-	-	1	-	-	-	-	-	-	3	-	-	4
Pipeline Covering	Mile	-	-	-	-	-	8	-	-	-	-	-	-	8
Reseeding	Acre	1,255	-	165	2,830	-	-	-	-	160	140	-	470	5,020
Reservoirs	Number	-	18	1	27	50	6	-	-	57	25	-	10	194
	Cu. Yd.	-	30,455	510	-	155,729	15,375	-	-	-	29,100	-	12,181	243,350
Springs	Number	-	6	34	2	6	10	-	-	7	8	-	-	73
Trails, Stock	Mile	-	-	-	1	-	-	-	-	5	-	-	-	6
Trails, Truck	Mile	6.3	-	-	-	-	-	-	-	18.8	66	-	-	91
Water Storage Facilities	Number	-	1	1	-	-	1	-	-	-	1	-	-	4
	Gallon	-	3,000	153	-	-	3,200	-	-	-	5,000	-	-	11,353
Weed Control	Acre	-	-	-	-	2	-	-	-	-	-	-	-	2
Wells	Number	3	-	-	-	4	22	3	-	12	12	-	8	64
Study Plots	Number	-	-	1	1	-	-	-	-	-	1	-	-	3

APPENDIX C

FEDERAL SOIL AND MOISTURE CONSERVATION PROJECTS: CONSTRUCTION
Fiscal Year 1955

Type of Project	Unit of Measurement	Arizona	California	Colorado	Idaho	Montana	Nevada	New Mexico	Oregon	Utah	Wyoming	Total
Boundary Posting	Mile	-	-	-	-	-	-	-	-	-	2,604	2,604
Brush Control	Acre	4,674	15,516	1,622	-	20	20,272	5,323	110	870	-	48,407
Cattle Guards	Number	-	-	-	7	-	6	-	2	12	-	27
Checks	Number	-	-	-	-	-	13	-	-	400	-	413
Contouring	Acre	-	-	-	-	111	1,920	100	-	-	-	2,131
Deep Plowing	Acre	-	-	-	-	-	-	100	-	-	-	100
Detentions	Number	1	-	1	-	10	-	17	-	46	12	87
Dikes	Lin. Ft.	1,580	-	1,320	-	8,899	-	765	-	-	119,575	132,139
	Cu. Yd.	8,800	-	1,115	-	9,050	-	5,502	-	-	110,207	134,674
Diversions	Number	-	-	3	1	-	-	3	-	-	4	11
Fencing	Mile	37	3	11	33	-	40	70	68	79	6	347
Pest Control	Acre	-	-	-	-	-	716	-	-	133,030	-	133,746
Pipelines	Lin. Ft.	-	18,480	-	-	-	-	-	-	29,468	-	47,948
Reseeding	Acre	2,170	11,299	3,117	16,096	603	17,706	7,466	12,848	2,230	4,193	77,728
Reservoirs	Number	-	13	36	6	25	-	12	77	34	41	244
	Cu. Yd.	-	30,374	51,556	-	78,184	-	93,693	96,250	46,813	115,002	511,872
Springs	Number	-	-	10	9	-	1	-	4	5	-	29
Study Plots	Number	6	-	8	2	-	-	4	1	-	-	21
Surveys	Acre	-	-	673,917	461,267	-	-	-	-	-	-	1,135,184
Trails, Truck	Mile	-	-	4	-	-	-	6	3	42	-	55
Tree Planting	Number	-	-	-	-	-	-	-	-	-	285	285
	Acre	-	-	-	-	-	-	-	-	-	2	2
Water Gaps	Number	-	-	-	-	-	2	-	-	-	-	2
Water Storage Facilities	Number	1	-	-	2	-	-	-	-	4	-	7
	Gallon	-	-	-	-	-	-	-	-	34,313	-	34,313
Weed Control	Acre	-	-	-	-	-	-	-	250	-	-	250
Wells	Number	1	-	-	2	-	24	1	-	-	-	28

APPENDIX D

Halogeton Infestation
July 15, 1955

State	Estimated Acreage October 1, 1954		Estimated Acreage July 15, 1955		Increase + Decrease -	
	BLM Lands	Other Lands	BLM Lands	Other Lands	BLM Lands	Other Lands
Oregon	20	20	20	0	0	- 20
California	17,540	40,340	17,760 1/	36,340 1/	+ 220	- 4,000
Idaho	192,520	112,760	203,560	107,400	+ 11,040	- 5,360
Nevada	642,000	458,000	2,706,346 2/	1,120,943 2/	+2,064,346	+ 662,943
Utah	2,695,030	992,930	3,329,428	1,427,466	+ 634,398	+ 434,536
Montana	33,044	40,249	16,960 3/	14,240 3/	- 16,084	- 26,009
Wyoming	494,100	384,600	126,016 3/	15,260 3/	- 368,084	- 369,340
Colorado	302	65	2,157	495	+ 1,855	+ 430
Total	4,074,556	2,028,964	6,402,247	2,722,144	+2,327,691	+ 693,180

Total Increase 1954 to July 1955 = 3,020,871

1/ Most of the decrease in halogeton in California results from the fact that 25,930 acres of halogeton in Nevada, but administered by Honey Lake Grazing District (California No. 2), was included in the infested acres in California in 1954.

2/ Large increase in Nevada due primarily to better surveys and spread within the boundaries of the major infested area.

3/ Decrease in infested acres in Wyoming and Montana as shown by recently completed surveys indicates that the original estimates were too high.

APPENDIX E

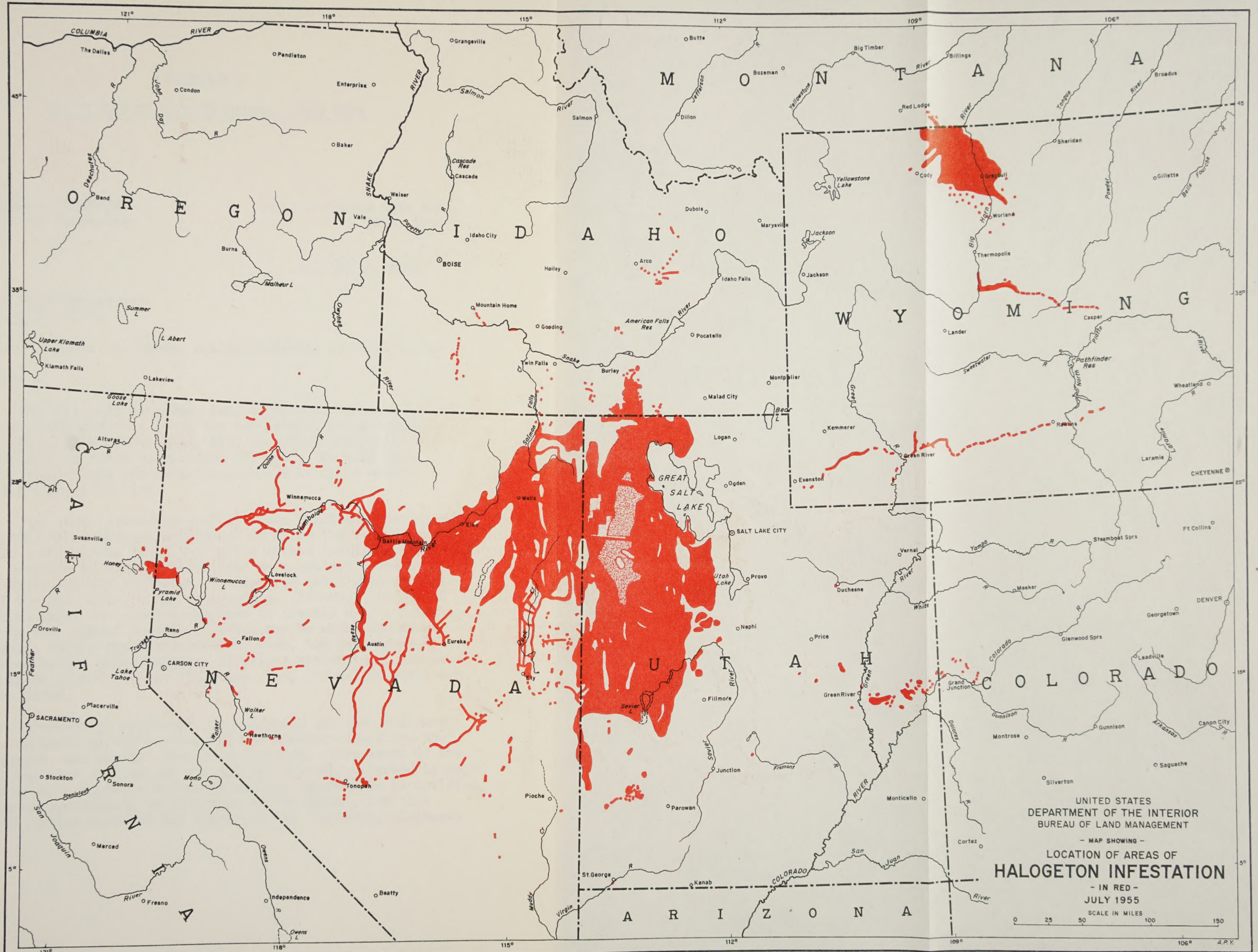
Accomplishments - Halogeton Control Program
1955 Fiscal Year

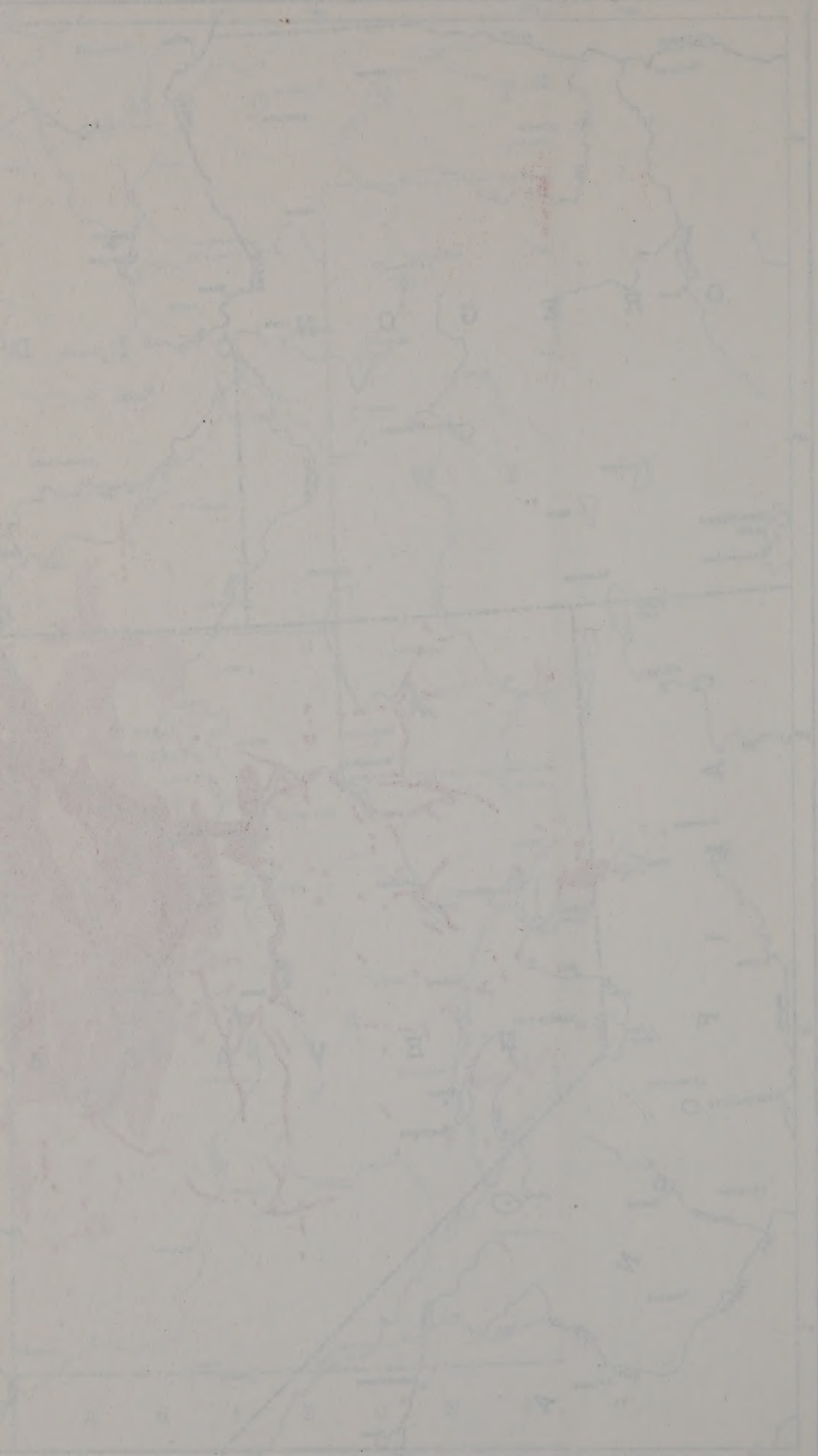
July 1955

Type of Project	Unit Measurement	California	Oregon	Arizona	Idaho	Nevada	Utah	Colorado	Montana	New Mexico	Wyoming	Total
Surveys	Acre	500,000	550,000	2,600,000	986,826	100,000	none	180,000	54,600	100,000	1,711,324	6,782,750
Seedbed preparation	Acre	none	none	none	19,686	2,000	none	none	none	none	none	21,686
Seeding	Acre	none	1,000	none	21,551	42,506	16,112	none	none	none	none	81,169
Fencing	Mile	none	none	none	39.9	81.17	102.9	none	none	none	none	224
Chemical control	Acre	1,800	20	none	1,890	2,100	5,043	1,786	32	none	4,245	16,916
Forage development	Acre	none	none	none	none	none	none	none	none	none	246	246

Accomplishments - Halogeton Control Program
1952 through June 30, 1955

Surveys	Acre	510,000	1,100,000	2,890,000	2,543,886	1,050,000	2,497,026	192,800	54,600	180,000	1,712,044	12,730,356
Seedbed preparation	Acre	none	19,501	none	150,668	125,876	56,181	235	none	none	none	352,461
Seeding	Acre	none	22,201	none	161,459	140,131	78,876	326	none	none	none	402,993
Fencing	Mile	none	59.5	none	194.9	268	429.9	7.5	6	none	25	991
Chemical control	Acre	2,208	20	none	5,397	42,300	23,499	2,801	947	none	6,128	83,300
Forage development (Waterspreading)	Acre	none	none	none	none	none	49,624	none	none	none	8,412	58,036


121°
118°
115°
112°
109°
106°
45°
35°
25°
15°
5°
COLUMBIA RIVER
The Dalles
Pendleton
Grangeville
Butte
Big Timber
Billings
Broadus
Bozeman
Condon
Enterprise
Salmon River
Dillon
Red Lodge
Sheridan
John Day R
Baker
Cascade Res
Cascade
Deschutes R
Bend
SNAKE RIVER
Weiser
Payette R
Vale
Dubois
Yellowstone Lake
Cody
Greybull
Gillette
Powder River
Belle Fourche R
Worland
Big Horn
Thermopolis
Idaho City
Marysville
Jackson L
Burns
BOISE
Hailey
Arco
Idaho Falls
Jackson
Malheur L
Mountain Home
Gooding
American Falls Res
Pocatello
Casper
Lander
Summer L
L Abert
Upper Klamath Lake
Klamath Falls
Owyhee River
Twin Falls
Burley
Montpelier
Pathfinder Res
North Platte River
Sweetwater R
Wheatland
Lakeview
Goose Lake
Malad City
Bear L
Alturas
Logan
Kemmerer
Green River
Rawlins
Laramie
CHEYENNE
Quinn R
Pit R
Winnemucca
Wells
Ogden
Evanston
Susanville
Humboldt R
Elko
GREAT SALT LAKE
SALT LAKE CITY
Ft Collins
Steamboat Sprs
Vernal
Yampa R
Honey L
Battle Mountain
Lovelock
Winnemucca L
Pyramid Lake
Utah Lake
Provo
Duchesne
Meeker
White River
Oroville
Reno
Fallon
Austin
Eureka
Nephi
Price
Georgetown
DENVER
Feather R
Truckee R
Carson R
Lake Tahoe
CARSON CITY
Ely
Leadville
Glenwood Sprs
Colorado R
Placerville
SACRAMENTO
Walker L
Hawthorne
Fillmore
Green River
Grand Junction
Gunnison R
Gunnison
Montrose
Canon City
Arkansas R
Stockton
Sonora
Mono L
Tonopah
Pioche
Junction
Fremont R
Saguache
Silverton
Merced
Parowan
Monticello
Cortez
San Joaquin River
Fresno
Owens River
Independence
Owens L
Beatty
St.George
Kanab
Virgin R
Muddy Cr
COLORADO River
San Juan River
CALIFORNIA
NEVADA
UTAH
ARIZONA
COLORADO
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
- MAP SHOWING -
LOCATION OF AREAS OF
HALOGETON INFESTATION
- IN RED -
JULY 1955
SCALE IN MILES
0 25 50 100 150
A.P.Y.
88013



APPENDIX F

CRITICISMS OF REVISED FEDERAL RANGE CODE

C O P Y

SPRINGMEYER & THOMPSON
Attorneys and Counselors

First National Bank Bldg.
Reno, Nevada

January 20, 1956

Bureau of Land Management
Washington 25, D. C.

Attention: Clarence A. Davis, Acting Secretary of the Interior

Gentlemen:

We have just received, and, of course, have not had an opportunity adequately to study the new Federal Range Code promulgated under date of December, 1955 and filed for publication in the Federal Register on December 22, 1955. We note that comments, suggestions and objections should be filed within thirty days of publication.

Our hasty examination of the Code discloses that it has not answered the principal procedural deficiencies in the existing Code. It continues to treat the matter of the initial application for and granting of grazing privileges as a contest between the Range Manager and the applicant, and ignores the rights of other users of the particular Range in question. Although the use of the Federal Range for grazing purposes is clearly only a privilege granted by the Federal Government which may be withdrawn at any time, still, from a realistic point of view, the Government, represented by the Range Manager, is only a stakeholder, and it is the rights of the various claimants among themselves which are really in issue.

Whenever an applicant for a grazing license considers himself aggrieved by the decision of the Advisory Board and the Range Manager, and appeals from that decision, other users of the Range in the area in question who may be adversely affected by the decision or by a decision on the appeal are required to be notified and given an opportunity to intervene in the appeal, but this procedural device protects the rights of the conflicing claimants

to use of the Range in only a small percentage of the cases. It is only the applicant whose grazing privileges are reduced by the Range Manager whose rights are adjudicated in an adversary proceeding.

How about the many applicants for grazing privileges whose applications are granted for the Federal Range Demand applied for or are so little modified by the action of the Range Manager that the applicant decides not to appeal? This applicant has then acquired a right to the use of the Federal Range to which he well may not have been entitled if his application had been contested, and he had not received the favorable nod of the Range Manager, and this without any opportunity for protest or contest by the other adversely affected users of that same Range. Further, an intervening protestant has no right of appeal. It is only the so-called aggrieved applicant who is given a right of appeal.

This procedural situation under the old Code, in my opinion, has resulted in most of the difficulties which have been encountered in the administration of the Range. I think that in many instances, unwarranted favoritism has been shown by the Range Managers to certain applicants. When these applicants are granted what they ask for, whether warranted or not, there is no remedy, and the Federal Range Demand granted them necessarily limits the use that can be granted to other applicants in the same area.

In my opinion, the Code should be revised so that every user of the Federal Range in a particular Range Unit should be given notice of the action contemplated by the Range Manager on the applications of every user in the Unit, and an opportunity to appear, intervene and protest in the consideration of the applications of every other user in the Unit, and if dissatisfied with the decision of the Range Manager on such application, the intervenor should have the right to appeal.

Unless something along this line is worked out, the Code may be revised every year without effectively curing the present chaos in the administration of the Federal Range Code.

Respectfully,

/s/ Bruce R. Thompson

Bruce R. Thompson

BRT:Mc

C O P Y

NATIONAL WOOL GROWERS ASSOCIATION

Office of the President

Route 3

Twin Falls, Idaho

February 13, 1956

Mr. Russell Penney, State Director
Bureau of Land Management
Boise, Idaho

Dear Russ:

There have been some questions arise about the proposed new grazing code, and I would like to have your reactions and ideas on them. They have to do primarily with sub-paragraph (i) of section 6(e)(14) relative to fencing of ranges. It would appear that this section might give the range managers quite unlimited powers to force permittees having * exclusive allotments to spend without limit for fencing under penalty of cancellation of their privileges. Do you read this section this way and if not, why not, or if so, why?

The next sub-paragraph seems to give the range managers similar unlimited powers over any permittee regarding financial outlays for fencing. Now a provision is included at the end of this sub-paragraph for appeals by any permittee affected under this provision of section 9(d). No such provision is included in the first subject paragraph.

Some of our folks have been wondering whether the inclusion in the one case and the omission in the other was an oversight, or if there was reason for the omission.

These questions that have come up are not necessarily in the form of criticism, but I think more of misunderstanding, and any light that you could shed on the subject, we would surely appreicate.

Would you be so kind when you answer to send a copy of your letter to Mr. Edwin E. Marsh, Executive Secretary of the National Wool Growers Association, 414 Crandall Building, Salt Lake City 1, Utah.

I am taking the liberty of sending a copy of this letter to Jack Keith asking for his reactions on the paragraphs.

It has been pretty cold down here in Twin Falls, as I know it has in Boise, but our lambing is going along nicely and things seem to be in pretty good shape.

I'll look forward to hearing from you at your earliest convenience on this subject. With kind personal regards, I am.

Sincerely,

/s/ J. H. Breckenridge

J. H. Breckenridge gm

JHB:gm

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

November 3, 1955

Memorandum

To: Director, Technical Review Staff

From: Staff Assistant

Subject: Proposed revision of Federal Range Code for Grazing Districts (43 CFR Part 161)

A review of the attached proposed revision of the Federal Range Code discloses no provision for planning cooperative action for the prevention, control, and extinguishing of range fires. Accordingly, it is recommended that the following be included as an additional subsection to Section 161.11(b), Rules of fair range practice:

"(4) When so requested by the State supervisor or range manager, the licensee or permitee shall join with the Bureau of Land Management in preparing a fire plan which shall set forth in detail the plans for prevention, control, and extinguishing of fires, including the responsibility of the licensee or permitee for action on the allotment and on adjacent Federal range."

(Sgd.) John F. Shanklin

Attachment

C O P Y

CENTRAL COMMITTEE NEVADA STATE GRAZING BOARDS

Mail Address--P. O. Box 1429

Reno, Nevada

February 14, 1956

Mr. Edward Woozley, Director
Bureau of Land Management
U. S. Dept. of the Interior
Washington 25, D. C.

Dear Mr. Woozley:

Thanks, very much, for your letter of January 30 in reply to my letter of January 20 regarding section 6(e)(14) of the new Range Code.

Since writing my letter, a copy of the Code has been received by our office.

In studying its various provisions more closely, it has been noticed that in the cases of sub-paragraphs (i) and (ii) of Section 6(e)(14) dealing with the powers of range managers to require grazing privilege holders to construct or maintain fences, provision for an appeal is made in the case of these powers as exercised by a range manager under the provisions of the last named sub-paragraph but not in the case of the first named.

We have wondered why permittees of the kind mentioned in the one sub-paragraph should be given the right of appeal while those mentioned in the other sub-paragraph are not given this right.

Then we have noted that in section 13 (e)(8) it is provided that "requirements for unit or allotment boundary fences and apportionment of costs between benefitting privilege holders" is a matter upon which boards of district advisers shall advise or make recommendations.

Looking at this from the viewpoint of a BLM grazing privilege holder who might feel that a fencing requirement made by a range manager in his case was unreasonable, we have wondered where his chances for relief might lie. For instance, is a privilegee with an exclusive allotment (such as described in the first

sub-paragraph) and with no right of appeal, supposed to rely solely upon relief, where justified, from board of advisers for his district under section 13(e)(8)? And, in the case of a privilegee using an allotment in common, does he have two chances for relief, one in an appeal and the other by referring the matter to his district board?

If agreeable we, here, believe, an answer to the above would help clear up our previously expressed doubts regarding the broad powers granted range managers in the new Code to force privilegees to lay out money for fencing the Federal lands regardless of their willingness or ability to do so.

In more closely reviewing the provisions of the new Code as they affect the interests of BLM grazing privilegees we also have wondered about the provisions in section 12(c)(2) and (3), page 19. Here it looks like the BLM is endeavoring to set up a claim of the right to seize and dispose of trespassing livestock without much regard for the usually recognized legal rights of holders of liens thereupon. Offhand, it would seem to us that such procedures, if within the law (which to us seems doubtful) and if actually followed by the BLM could operate so heavily to the disadvantage of lenders on livestock as to make it difficult for privilegees in need of credit to secure the same under terms and rates sufficiently reasonable to enable them when in need of credit, to keep their enterprises going.

For example, in a State like Nevada, with its wide stretches, it seems to us reasonable to say that many livestock lenders and lending agencies, both Federal and private, far removed from the region concerned but with liens on livestock therein which a borrower either knowingly or carelessly or even wilfully permitted to trespass on BLM lands would have little if any chance at all to know even what was going on under the 48 hour public notice provision of the above mentioned Code sections.

And even if the lien holder did know, a 48 hour limit would seem to us a very short time allowance within which a possibly far away lien holder either had to pay such damages as might arbitrarily be claimed by the BLM or possibly suffer the complete loss of his livestock collateral.

Even if a liberal time limit was provided, a lender with a lien on livestock in a BLM region might find himself faced with an unexpectedly heavy bill if a borrower who had little equity left in them and therefore little interest in what happened to his livestock and who might even want to cause the lender trouble, deliberately turned his livestock illegally upon the BLM lands. In some

of the more isolated areas of the federal ranges in Nevada, a heavy damage bill might be run up before even the BLM agents discovered the trespass.

We also wonder about the idea of putting upon the lenders the burden of keeping the BLM on notice of their liens.

There is a usual and customary place, under the laws of States such as Nevada, for the placing of liens of record and to now upset this usual and customary procedure prescribed by these laws by allowing a Federal Bureau by regulation to create what would amount to an unrecorded lien to the disadvantage of other lien holders of record, just doesn't seem to us to be in the best public interest. If the proposal should be lawful and procedure under it become established, we wonder about the endless lengths to which it could conceivably be carried by other Federal bureaus, even with conflicting federal interests, and which it seems to us could result in a chaotic condition for all concerned. Such a principal enforced by bureaucratic rule would seem to us to abrogate the authority of elected law-makers.

In all of this, we are viewing the matter from the standpoint of the stockmen permittees in whose case credit on their herds and flocks at reasonable rates and under reasonable terms is generally essential to the continuance of their business.

We can appreciate, of course, that all the arguments are not on one side in this matter of trying to control trespass and that the administrators must not be handcuffed in the matter of controlling the trespassing of livestock which happen to be under lien to a lender but we can not help but wonder if the provisions discussed above are not altogether too one sided in favor of the administrators and against the lienholders to the detriment of the privilegees who, to be able to conduct their enterprises on any sound economic basis usually must have available a ready source of credit upon reasonable terms and at reasonable rates and finally to the detriment of the social, business and tax structures of their local communities.

Sincerely yours,

(sgd.) Vernon Metcalf
Consultant

VM:tw

c.c. Hon. George W. Malone
Hon. Alan Bible
Hon. Cliff Young
Fred Strosnider, Chairman-Central Committee
National Wool Growers Assn.
American National Cattlemen's Assn.
A. D. Brownfield, Chairman, National Advisory Board Council

C O P Y

DOUGLAS A. McKAY, SECRETARY OF INTERIOR
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON 25, D. C.

PROTEST

Comes now, WILLIAM O. BRADLEY, attorney at law, Reno, Nevada, on behalf of the following Taylor Grazing permitees in the State of Nevada:

C-B Land & Cattle Co., White Pine County, Nevada;
Circle L Ranch, E. L. Cord, Elko County, Nevada;
Simco, Inc., M. Laurence Montgomery, M. D., Elko County, Nevada;
Flat Creek Ranch, R. H. Hadley, Sr., Humboldt County, Nevada;
Boccardo Corporation, Alder Creek Ranch, Humboldt County, Nevada;
Locke & Titus, Nye County, Nevada;
St. John Laborde, Lander County, Nevada;
James Etheralde, Eureka County, Nevada;
East Walker Ranch, A. S. Murphy, Lyon County, Nevada;
J. L. Capurro, Big Canyon Ranch, Washoe County, Nevada;
John B. Archer, Washoe County, Nevada;
W. H. Moffat, Elko County, Nevada;
Swallow Bros. Ranch, White Pine County, Nevada;
Tumbling I Q Ranch, S. T. Clarke, Ormsby County, Nevada;
Monte Crisco Ranch, W. Dalton LaRue, Washoe County, Nevada;

and protests the adoption of the following revisions of the Federal Range Code for the following reasons:

1. Section 161.2, p. 1, 2, 3 and 4:

Section 3 of the Taylor Grazing Act specifically says, and I quote:

"Provided Further, That nothing in this Act shall be construed or administered in any way to diminish or impair any right to the possession and use of water for mining, agriculture, manufacturing, or other purposes which has heretofore vested or accrued under existing law validly affecting the public lands or which may be hereafter initiated or acquired and maintained in accordance with such law."

The language of the Act is clear and concise and absolutely reflects the intention of Congress that private water rights be recognized and respected in the administration of the Taylor Grazing Act. The Code provisions above quoted completely alter the intention of the Taylor Grazing Act in this regard and is a deprivation of property without due process of law. The Federal Range Code for Grazing Districts should incorporate the language of the Taylor Grazing Act in this regard and make it mandatory upon the Government to recognize and respect water rights in accordance with the specific language above quoted of the Taylor Grazing Act.

2. Section 161.6 (e), (13) (i) and (ii):

The permitees should have the same privileges as the Government to question any readjudication of any permit which may have been improperly granted initially. These two provisions permit the Government to readjudicate a permit at any time when necessary to comply with the Federal Range Code for Grazing Districts. A permitee should be given the same privilege if such permitee can show the permit he questions does not comply with the requirements of the Taylor Grazing Act.

3. Section 161.6 (14) (i) and (ii):

These two sections permit the range manager to coerce any licensee or permitee into entering into a fencing agreement by refusing to issue him a license unless he so agrees. This opens the door to any manner of fraudulent and coercive tactics on the part of the range manager. These fencing agreements should not be made subject to the issuance of a license or permit.

4. Section 161.7 (2)

The following language in this section should be deleted:

> "Where, however, a transfer, or a different vesting in any manner, of a leasehold interest in land or water may result in interference with the stability of livestock operations or with proper range management, upon a finding to that effect by the range manager, after reference to the advisory board, such land or water will lose its base property qualifications and grazing privileges based thereon will be denied."

This language should be stricken from the Range Code and cancellation or reduction of permits should not be made upon transfers but the transferee should receive the same privileges received by the transferor, provided he is entitled to be issued a Taylor Grazing permit.

5. Section 161.9 (1) and (2):

The range manager should be required to notify permitees and their designated agents or attorneys by certified mail of the date upon which applications must be filed.

Applications for grazing licenses of district advisers should be considered by the advisory board without the district adviser being present. Having the district advisers' application considered only by the range manager may result in favoritism being shown to the district advisers by the range manager in order to persuade them to follow his instructions and to go along with his various rulings. District advisers should not be allowed to sit in judgment on applications in which they have an interest as is provided in the Taylor Grazing Act. Language to this effect should be incorporated in the Range Code.

The range manager should not have any participation whatsoever in the decisions of the advisory board. (They should be made by the advisory board independent of the range manager's participation). If the advisory board makes a recommendation to the range manager, he should then act upon it independently and either affirm or reject it. If action on the application as recommended by the advisory board is changed in any regard by the range manager, the burden of proof should be upon the range manager to justify the change.

6. Section 161.10 (1) (2) and (3):

The permitee should be given the right to merely state that he appeals from the decision of the range manager. He should not be required to state the reasons clearly and concisely until he has consulted his attorney and all grounds of error not stated certainly should not be considered as waived. The appeal should not be made subject to motion to dismiss but should be heard on the merits.

7. Section 161.10 (c) (1):

The language stating that "subpoenas, depositions, the attendance of witnesses, and witness and deposition fees shall be governed by Parts 221 and 223 of this chapter, to the extent such regulations are applicable" should be stricken and instead these particular phases of the proceedings should be governed by the applicable rules under the Federal Rules of Civil Procedure. The permitees should be permitted to use discovery proceedings in order to determine the type of case which the Government intends to rely on in reducing any permit or changing any permit.

8. Section 161.10 (d) (1):

The language to the effect that "Issues not covered by the appellant's specifications of error may not be admitted except with the consent of the State Supervisor or his representative, unless the examiner rules that such issue is essential to the controversy and should be admitted" should be stricken. That language gives the Government the power to determine the issues and the permitee is at the mercy of the frailities of the examiner to either permit or exclude vital issues. All relevant issues should be tried at the request of the permitees.

9. Section 161.10 (d) (2):

This section should be completely stricken and the Government should be required to present its case sustaining the action of the range manager. The appellant, after having heard the Government's case, should be permitted to cross-examine Government witnesses and to present his own case on the merits. The examiner should decide the case on the merits and not upon motion to dismiss. This language completely shifts the burden of proof from the Government to the permitee. This language adopts the principle that the permitee is deemed guilty until he proves himself innocent.

10. Section 161.10 (e) (2):

This section should be stricken in its entirety. The Director is one step in the Administrative Appellate Procedure and if he can require the examiner to make only a recommended decision subject to his review and subject to his making the initial decision, why bother with the examiner stage of the proceeding at all?

11. Section 161.13 (b):

The range manager should not be given the right to divide the elected district advisers into classes to serve for one year, two years or three years. The advisers should all serve the same terms and the election should be held every year and by actual polling. All permitees and their designated agents or attorneys should be notified by certified mail of the date of the elections and where they are to be held.

12. Section 161.13 (c):

The State Supervisor should not be able to remove any district adviser from office. This should be done by the permitees in the district involved. This provision permits the State Supervisor to remove any district adviser who might rule contrary to the

State Supervisor's wishes. The members of the advisory board should be determined purely by the permitees in the district. The Government should have absolutely no voice in determining who the members of the district advisory board are to be, other than to approve the duly elected advisors.

13. Section 161.13 (d):

The meetings of the advisory board should be public and at the request of any permitee the Bureau representative may be excluded from any particular phase of the meeting.

14. Section 161.13 (e):

This section should be deleted from the Code and the language of the Taylor Grazing Act re advisory boards be substituted.

This Range Code should not be made effective until a hearing is granted on this protest and said William O. Bradley does hereby request an opportunity to be heard in this regard.

Respectfully submitted,

(Sgd.) William O. Bradley
Attorney for Protestants
300 Ryland Building
220 South Virginia Street
Reno, Nevada

policy which will place a limitation on actions by the Bureau on cases of this type.

3. Section 161.6(e)(14)(i) and (ii)

There are and will continue to be many situations where allotment, drift, and other types of fences are required for proper management of the Federal range. The great majority of stockmen are sympathetic to such fencing programs. There have been instances, however, where one stockman has refused to participate in the construction or maintenance of a fence to the disadvantage of management needs and serious harm to neighboring stockmen. The possibility is slight of the range managers using this subsection to coerce permittees into fencing agreement programs which are not vital to the range program.

All actions under subsection 161.6(e) are subject to appeal and review at a higher level as a means of insuring fair treatment of permittees and proper and correct administration of the Federal range.

4. Section 161.7(a)(2) is subject to show cause proceeding under 161.9(d), also, adverse action on a license or permit under this section

This regulation is intended to cover unusual situations which might arise and not as a basis for transfer cuts in general, as implied in the criticism. It has not been applied since 1942, when the present transfer provisions were first adopted. The transfer of a grazing license or permit is a privilege and not a right. It would be improper and inconsistent with the purposes of the Taylor Grazing Act to authorize transfers which would upset the stability of livestock operations, the local economy, or sound range management.

The range manager is required to act independently on recommendations by the advisory board and to set forth his reasons if he fails to adopt the recommendation of the board.

5. Section 161.9(a)(1) and (2)

The requirement that the range manager should notify permittees and their designated agents or attorneys by certified mail of the date upon which applications must be filed is an unnecessary and unwarranted burden and expense to the Bureau. It is inconsistent with general business practice. The responsibility for protecting privileges or rights rests with the person asserting such rights. It should be remembered that after term permits are

COMMENTS BY G. M. KERR, MARCH 1956

WILLIAM O. BRADLEY, Attorney at Law, Reno, Nevada
Protests the adoption of certain specified provisions of the Federal Range Code for Grazing Districts:

1. Section 161.2. pp. 2, 3, and 4 (private water rights)

There is nothing in the regulations relating to water that is in conflict with the proviso in section 3 of the Taylor Grazing Act or that results in confiscation of water rights established under State law. Such rights relate to the specific waters described and may not be extended to control the uses of the public land on which the water is situated or that surrounds such water. Decisions of the District Court of Nevada (No. 4189) of June 28, 1937, John E. Marbel and State of Nevada vs. Pete Itcaina (No. 5795) of January 1, 1954, Harvey Titus and Madison Locke vs. Bertrand Arambel and Pete Echeverry, and of the Federal Court for the District of Utah, 56 Fed. (2d) 269 (1932) United States vs. Schmutz, et al, support this assertion.

The regulations simply prescribe the characteristic of waters which may be recognized as base property and the extent of grazing privileges which may attach to such waters. The authority of the Secretary of the Interior to issue these specific regulations is clear.

2. Section 161.6 (e)(13)(i) and (ii)

The Secretary has said in numerous decisions that there must come a time in an adjudication when a stage of finality is reached. Subsection (i) of this rule does not become operative until the close of a three-year period in which an applicant or intervener has had the opportunity to object to an adjudication but has failed to do so. Three years seem to provide a reasonable time for the filing of objections.

Numerous errors in early adjudications prompted the formulation of the rule in (ii) as a means of providing fair notice that these errors are subject to correction upon discovery by the Bureau.

It is not certain whether legislation would be required to authorize the Department or the Bureau to waive the right to attack adjudications which are found to be inaccurate. Nevertheless, the Bureau now has under consideration the adoption of a

issued there is no necessity for a permittee to file an application unless a use is desired different than that provided for in the permit.

Section 161.9(a)(2) is more restrictive than the like provisions in other editions of the Code and of that part in section 18(b) of the Taylor Grazing Act. It has been the practice in the past in most districts for the advisory board to consider and make recommendations on applications in which its individual members have a direct or indirect interest in the absence of such members. The proposed amendment of the revised subsection in this respect has merit.

The objection to the range manager participating in considerations of the advisory board which lead to its recommendations has no validity in view of the fact that such recommendations are strictly the responsibility of the board. Furthermore, the boards should not be restrained from seeking the views of the range manager in advance of the formulation of its recommendations.

6. Section 161.10(a)(1), (2) and (3)

The requirement that an appeal must state the reasons why the appellant thinks the decision of the range manager is in error and that all grounds not stated will be considered waived is considered to be most reasonable. The range manager is required to state in his decision all of the reasons for it. If the applicant takes issue with the decision and the basis for it, the incorporation of the reasons for his objections in the appeal should be a simple matter. Here again it is the responsibility of the party who thinks his rights are being infringed upon to support his contentions in a reasonable manner.

A requirement that an appeal should be heard on its merits in spite of its frivilous character is unreasonable because it would further delay the orderly processing of valid appeals and result in an unjustifiable expense to the Government and other users whose grazing privileges might be indirectly involved in the appeal.

7. Section 161.10(c)(1)

It is customary for most Federal agencies to provide the procedures that seem to best fit their needs. The procedures described in Parts 221 and 223 (43 CFR) relating to hearings in the Interior Department were first placed in effect in 1926 and have continued since that time without serious criticism. They may not, however, cover the matter of discovery proceedings in grazing hearings in a satisfactory manner. The subject should be given careful consideration.

8. Section 161.10(d)(1)

If an appellant complies with the requirement in section 161.10(a)(1) and states in his appeal the reasons for it, his rights will not be jeopardized in the development of the issues to be considered by the Examiner at the hearing. In any event the admissibility of issues not covered by the appellant in his specifications of error and objected to by the State Supervisor or his representative is subject to ruling by the Examiner.

9. Section 161.10(d)(2)

Under this provision the burden of supporting his appeal and proving his case is placed on the appellant where it rightfully belongs. The appellant is attacking a ruling of the Government. It is his responsibility to defend his contentions initially, not for the Government to defend its position.

10. Section 161.10(e)(2)

Provision for the Director to require the Examiner in a particular case to make only a recommended decision to the Director was adopted primarily as a means of facilitating the appeal procedure. Resort to it has been had in only one case in which fast action was imperative. In this instance the decision of the Examiner was adopted by the Director without change and the time required to get an appeal to the Secretary was shortened by several weeks.

11. Section 161.13(b)

As indicated in the regulations, dividing those elected to an advisory board by the range manager into three classes to serve for one year, two years, or three years occurs only after the first election in a district. Thereafter those members serving one year come up for re-election or replacement at the expiration of their terms. They, if re-elected, or their replacement, will then serve for three years. The division of the group by the range manager into three parts is by lot in the presence of the elected members and is in no sense arbitrary.

The proposed requirement that permittees and their designated agents or attorneys be notified by certified mail of the date and place or places of a forthcoming advisory board election would place an unjustifiable and expensive burden on the Government.

12. Section 161.13(d)

The regulation provides that meetings of the advisory board shall be open to the public except that it may meet in

executive session on the approval of the Bureau representative. Executive sessions are essential when grazing applications are being passed upon and at times for the consideration of other business. It would be a rare instance when the presence of the Bureau representative was not desirable.

13. Section 161.13(e)

Listing of the duties and functions of district advisers is primarily for the benefit of board members. There appears to be no good reason for eliminating this subsection.

BRUCE R. THOMPSON, Attorney at Law, Reno, Nevada

Contends that the revised Code continues to treat the matter of the initial application for grazing privileges as a contest between the range manager and the applicant and ignores the rights of other users of the particular range.

Reading those regulations pertinent to the adjudication of grazing privileges and the order in which they appear in the Code without the benefit of Manual instructions covering the adjudication process, gives rise to the interpretation that an application may be adjudicated without consideration of the qualifications and just demands on the particular range of other competing applicants. It is a fact also that some of the early adjudications were made in this manner.

Mr. Thompson's proposal that the adjudication of grazing privileges should be made on a grazing unit basis with the demands of all users of the particular range being worked out at one time and then each applicant given an opportunity to review the completed adjudication and see the amount of grazing privileges each applicant is being awarded, is consistent with the procedures for grazing unit adjudications which are now in effect. These procedures are described in Volume IX, Part 2, of the Bureau Manual.

J. H. BRECKENRIDGE, President, National Wool Growers Association, Twin Falls, Idaho, and VERNON METCALF, Consultant, Reno, Nevada

Express concern at the possibility that section 161.6(c)(14) gives the range managers quite unlimited powers in the

enforcement of allotment fencing requirements. They concluded that no provision is made for appeals from actions by the range manager under 161.6(e)(i), although under 161.(e)(ii) show-cause action and appeal under section 161.9(d) are authorized.

It is believed that permittees are adequately protected against any possibility of arbitrary action under this regulation. In the first place any fencing programs or requirements shall be presented to the advisory board for consideration and recommendation as provided in section 161.13(e)(8) of the Code. Secondly, any necessary enforcement action under section 161.9(d) applies to both subparagraphs (i) and (ii).

Mr. Metcalf questions the authority of the Bureau to impound and dispose of trespass livestock pursuant to section 161.12(c)(2) and (3) without regard to the legal rights of holders of liens on the livestock.

There is no provision in the regulations for holders of liens on permitted livestock to file notice with the Bureau of such liens or for the Bureau to notify them of contemplated trespass action. It appears in the circumstances that holders of liens on trespass livestock which might be seized and disposed of would look to the owner for settlement of the lien. Judging from past experience the possibility of this type of situation becoming serious is extremely remote.

Mr. Metcalf also questions the procedures under section 161.18 for the filing of notice with the Bureau by lending agencies of loans made on licenses and permits. This regulation and the procedures under it were adopted as a means of providing the certain specified service to the loaning agencies. It is entirely up to these agencies to decide whether they want to take advantage of the assistance proffered and under the limitations set out in section 161.18(d).

APPENDIX G

STATEMENT BY WESLEY A. D'EWART, ASSISTANT SECRETARY OF THE INTERIOR FOR PUBLIC LAND MANAGEMENT, BEFORE THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. Chairman, it gives me great pleasure to appear before you this morning in such familiar surroundings, and to give you what assistance I can to throw some additional light upon the subject of public land problems.

The Department of the Interior is responsible for the administration of some 440,000,000 acres of the unappropriated and unreserved public domain in the United States and Alaska. In increasing measure during and since World War II, we have seen interest expressed in both the surface and mineral resources of the public lands.

That interest has been shared by agencies and departments of the Federal Government, and particularly the military departments, which have from time to time expressed a need for large areas of public lands for use in carrying out their responsibilities and their functions.

The usual method for satisfying such needs is by a withdrawal order called a public land order, which transfers the jurisdiction of and administrative responsibility for such lands, or interests therein, to the applicant agency.

Withdrawals today are made under four major bases of authority. The first of these is the implied authority of the Executive. It has been the practice since the early days of the Republic, as the necessities of the public service required, for the President to withdraw public lands from the operation of the public-land laws and to reserve them for specific public uses.

This practice continued over the years with the knowledge of and without the disapproval of the Congress. It was recognized by the Supreme Court of the United States in the famous case of United States vs. Midwest Oil Company reported in Volume 236 U.S. Reports at page 459, which enunciated the principle that by such use of the power of withdrawal a grant of authority was implied.

This broad, implied authority was delegated to the Secretary of the Interior by Executive Order No. 9146 of April 24, 1942 and Executive Order No. 9337 of April 24, 1943, and

lastly, by Executive Order No. 10355 of May 26, 1952, under which current withdrawals are being made.

This latter order removed the necessity theretofore existing that withdrawal orders be cleared through the Attorney General and the Bureau of the Budget, and incidentally specified that all withdrawals made under its authority should be designated as "public-land orders". It is under the authority of Executive Order No. 10355 that withdrawals by public land order for the military are promulgated.

The second basis for current withdrawals is the act of June 25, 1910, (36 U.S. Statutes 847; 43 U.S. Code, secs. 141 to 143.) This act authorizes the President to temporarily withdraw any of the public lands for water power sites, irrigation, classification of lands, or other public purposes. It may be noted here that while withdrawals made under the act are termed "temporary", the act specifies that they shall remain in force until revoked by the President or by an act of Congress. Lands included in withdrawals made under the authority of this act are at all times open to location under the mining laws as the same apply to metalliferous minerals.

The third category includes withdrawals made under various acts establishing particular fields of activity, an example of which is the authority given by Congress to the Secretary of the Interior to make reclamation withdrawals.

The fourth category of withdrawals is represented by those created by specific acts of Congress which withdrew specific areas for specific purposes. These withdrawals continue until such time as Congress acts to revoke them.

The 1910 Act speaks of temporary withdrawals, implying the existence of a permanent type, and it also speaks not only of withdrawals but of reservations as well. The term "withdrawals" means to make lands unavailable for private appropriation. "Reservation" implies the dedication of lands, either immediately or prospectively, to some public use or purpose. The terms have sometimes been used interchangeably. Withdrawals may bar all uses. They may bar some and leave others which are compatible with the primary purpose of the withdrawal, as where grazing is allowed to continue on lands withdrawn for military use.

Of the words "temporary" and "permanent", it has been said that they do not have absolute meanings in terms of time. Rather they are words which go to the nature of the withdrawal. A withdrawal of lands and their reservation for a present use rendered necessary for the discharge of the responsibilities vested

in the Executive branch of the Government is said to be permanent. These reservations have been made for such purposes as post offices, military and Indian reservations, lighthouses, and the like.

Temporary withdrawals, so called, were first made in large numbers in the early years of the present century when the President withdrew extensive areas valuable for their natural resources, pending the enactment of legislation designed to conserve them or to provide for their development. His authority to do this, which was questioned, was confirmed by the act of June 25, 1910. These withdrawals which are made pending the submission of proposals to Congress, or for classification, or in contemplation of a future use are called "temporary". They are made under authority of the Act of 1910, which, as I have stated, leaves them open to mining location for metalliferous minerals.

In processing applications for the withdrawal of public lands, it is the policy of the Department of the Interior (1) to keep all withdrawals to the minimum required to serve the public interest, (2) to cause the least disturbance to and permit maximum public use of such areas consistent with the primary purpose of the withdrawal (3) to review such areas periodically in terms of the current necessity therefor, and (4) to revoke withdrawals where they are no longer needed.

Procedures have been initiated which we believe will provide for a continuing review of all withdrawals made for an agency of the Department of the Interior. We have not been able to accomplish such systematic and all-encompassing type of review of lands reserved for other agencies and departments as we would like. In any case, however, where individuals or other agencies suggest to the Department of the Interior that withdrawn lands are not being utilized, in whole or in part, we pursue a diligent inquiry to ascertain the facts and to secure the release of the lands from the administering agency.

Withdrawal procedures are set forth in detail in Departmental Circular No. 1830 which is carried forward into sections 295.9 through 295.11 of Volume 43 of the Code of Federal Regulations. Briefly, these regulations require that withdrawal applications be filed with the Manager of the Land Office having jurisdiction of the area where the lands are located.

The serializing of the application by that official and his noting of it upon the tract and plat books temporarily segregates the lands applied for, from all other forms of disposal, to the extent that the withdrawal or reservation applied for, if effected, would prevent such forms of disposal. Such a segregation is not a withdrawal, although closely allied thereto in nature, the chief difference being that other applications for such segregated lands are suspended pending final action upon the withdrawal application,

whereas applications for withdrawn lands, to the extent that they conflict with the purpose of the withdrawal, are rejected. In previous testimony before this Committee, witnesses for the military departments have used the term "temporary withdrawal". Actually, it is in the sense of a temporary segregation pending action on a withdrawal application by the Department of the Interior that they were using the term. When we speak of "segregating lands temporarily" we refer to the result which automatically follows as the result of the filing of a withdrawal application pursuant to Departmental Circular No. 1830. This is not a withdrawal, as such.

Public lands are also made available to Federal agencies (and others) by means of special land use permits. Such permits are in the nature of mere licenses, do not transfer jurisdiction of the lands, and are revocable upon a determination that the lands should be devoted to another use. Mining locations may be made upon permit lands, and applications and selections may be made under non-mineral laws subject to revocation of the permit.

Because of the previous testimony before this Committee on the matter of surplus lands it would appear proper that I comment briefly upon the Federal Property and Administrative Services Act of 1949 as it was amended by the act of July 12, 1952 (63 Stat. 377; 66 Stat. 593; 43 U.S.C. 471).

The act defines property as meaning "any interest in property of any kind except (1) the public domain (including lands withdrawn or reserved from the public domain which the Administrator, with the concurrence of the Secretary of the Interior, determines are suitable for return to the public domain for disposition under the general public-land laws because such lands are not substantially changed in character by improvements) and lands reserved or dedicated for national forest or national park purposes..."

The act provides (40 U.S.C. sec. 474) that the authority conferred shall be in addition and paramount to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent therewith. It seems then, that the authority to determine whether excess withdrawn public lands are suitable for return to the public domain for disposition under the public-land laws rests with the General Services Administration.

If we disagree with a finding of non-suitability by that agency, there is no provision in the law for an arbitration of such disagreement. The law is also silent as to what, if any, minerals should be reserved to the United States in lands which that agency disposes of as surplus. We understand that the General Services Administration claims to have authority to dispose of the

surface and subsurface resources together, or separately as may appear to be in the best interests of the Government.

In what manner the General Services Administration will determine whether surplus lands are valuable for minerals, and how such minerals will be disposed of, we do not know. We understand, however, that the General Services Administration is presently engaged in drafting regulations which may serve to narrow the present zone of uncertainty between the act and its administration. We hope to have an opportunity to examine and to comment upon the proposed regulations prior to their adoption.

I wish to express my appreciation and that of the Department for the help this Committee is offering in the solution of a problem which has always been one of some complexity, involving as it does, broad questions affecting the economy of whole communities and even of entire States. These problems are becoming increasingly complex as the nation's horizon expands and its responsibilities grow.

The Department of the Interior is engaged in constant studies to ascertain in any case involving applications for withdrawal, to what extent such applications may be allowed in terms of maximum economic utilization of the land and a minimum of disturbance to the local economy. However, we are not in a position to weigh the economic impact of the withdrawal of substantial acreages against military necessity.

I welcome this opportunity to present the position of the Department of the Interior with respect to the subject of your inquiry.

APPENDIX H

DEPARTMENT OF THE INTERIOR POLICY
ON THE SMALL WATERSHED ACT (P.L. 566)

A. The Act authorizes the Secretary of the Interior to cooperate with the Secretary of Agriculture in the planning and development of works on lands under the jurisdiction of the former.

B. Section 3 of the Executive Order provides that the Secretary of the Interior shall, in writing, notify the Secretary of Agriculture, the Secretary of the Army, and any other Federal agencies concerned, of his decision to initiate any survey or investigation involving water-resource development work related to the Act, and shall furnish the Federal agencies concerned with appropriate information regarding the scope, nature, status, and results of any such survey or investigation. In carrying out this obligation, the Department will follow the procedure of Inter-Agency Committee on Water Resources in notifying the Secretary of Agriculture and the Secretary of the Army and other Federal agencies.

C. Section 3 of the Executive Order provides also that the Secretary of the Interior shall cooperate with the Secretary of Agriculture in assessing the need for works of improvement under the Act on lands under the jurisdiction of the Department of the Interior. Recommendations of the Secretary of the Interior for necessary work on such lands shall be submitted as an integral part of the plans of the Department of Agriculture for works of improvement. Arrangements for construction, operation, and maintenance of works of improvement on such lands shall be mutually satisfactory to the Secretary of Agriculture and the Secretary of the Interior.

D. Section 6 of the Executive Order requires the basic-data collection agencies, including the Geological Survey, to assist and cooperate with the Department of Agriculture in providing pertinent information and collaborating in planning, analyzing and interpreting data. Such assistance may be limited by the amount of funds provided under the Act.

E. Under the provisions of the Coordination Act of August 14, 1946, the Department is obligated to investigate and report upon the effects of water control measures on fish and wildlife resources installed with Federal assistance. The findings of the Fish and Wildlife Service on such effects and the measures recommended and agreed upon for preventing

or mitigating losses to these resources shall become, after prior clearance with the Assistant Secretary - Public Land Management, an integral part of the Watershed Work Plans.

The bureaus shall be responsible for cooperating with the Department of Agriculture, as indicated above, in the planning and development of works on or related to lands under their respective jurisdictions. They will also keep the Secretary of the Interior informed on the pertinent developments of the program by reporting as required in this Part through the Technical Review Staff.

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